

**NOTICE OF PUBLIC MEETING  
LAFAYETTE PLANNING COMMISSION**

**DATE & TIME:** Thursday, December 19, 2024 – 6:30 p.m.  
**PLACE:** Council Chambers, 486 Third Street, Lafayette, OR 97127

**AGENDA**

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1. CALL TO ORDER
2. FLAG SALUTE
3. ROLL CALL
4. CITIZEN INPUT ON NON-AGENDA ITEMS
5. APPROVAL OF MINUTES
  - a. November 21, 2024 Planning Commission Meeting.....1
6. WORK SESSION
  - a. Housing Amendments (LA 2024-01).....8
  - b. Floodplain Overlay District (FPO) Amendments (LA2024-02).....9
7. NEW BUSINESS
  - a. None
8. OLD BUSINESS
  - a. None
9. COMMISSIONER COMMENTS
10. NEXT MEETINGS
  - a. January 16, 2025
  - b. February 20, 2025 (Joint Work Session with City Council on Parks Master Plan)
11. ADJOURNMENT

*The Council Chambers is accessible. If you need an accommodation to attend or participate in a meeting or wish to participate remotely, please notify the City at (503) 864-2451 at least 24 hours prior to the meeting.*

## City of Lafayette

### Planning Commission Meeting Minutes

Thursday November 21, 2024, at 6:30 p.m.

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1. **CALL TO ORDER:** Chair Kerr called to order at 6:35 p.m.

2. **FLAG SALUTE:** Chair Kerr lead flag salute.

3. **ROLL CALL:** Chair Kerr called the Roll:

**Present:** Chair Ron Kerr, Stephen Belding, Jon Meola, David Rodgers, Roger Webb

**City Staff Present:** Kennedee Richardson, City Recorder, Jim Jacks, City Planner, Nicole Laudisio, City Development Clerk

**Not Present:** Scott Adamson

**Others:** Hilary Malcomson, Chuck Mitchell, Matt Willcuts, Teresa Gilmore, Mark Willcuts, Kari Willcuts, James Willcuts, Kitt Johnston

4. **CITIZEN INPUT ON NON-AGENDA ITEMS:**

Chuck Mitchell owns a property in Lafayette on Jefferson St. and Water St. Chuck Mitchell came to the meeting to promote growth and density in the city and wants to build a triplex on his property in the future. Chuck Mitchell's thought that his request would be a major variance but learned that it would falls under the 20% requirement for a major variance and wanted to see how the community feels about a triplex or a three townhouse. City Planner Jim Jacks clarifies that common wall building would be permitted outright in the R-2 zone. Mitchell clarifies that he is here today to get the opinion of the Planning Commission on this kind of project. Chair Kerr recommends that Mitchell submit the information to City staff, Commissioner Webb shares concern with giving an opinion in case this matter needs to come before the Commission for a decision. This conversation could become ex parte contact.

5. **PUBLIC HEARING:**

a. *Major Variance 2024-02. To Extend Hours of Operation for a Retail Location, 373 N. Bridge St.*

Commissioner Roger Webb wants to be proactive in addressing any ex-parte contact with the applicant and owner due to the "rumor mill" after it was learned that the applicant and owner is a County Commissioner. Commissioner Webb states that he would like to extend the question of ex parte contact from just the Planning Commissioners to City Staff, the Mayor, City Councilors during the entirety of the "re-zoning process" Commission Chair Ronald Kerr opens the public hearing at 6:37 Commission Chair Ronald Kerr and City Planner Jim Jacks read the planning commission procedures. No objections from the those in attendance regarding the notice set out. No objections were raised to the jurisdiction of the Planning Commission. No conflict of interest or ex-parte contacts were disclosed by the Commissioner. Commissioner Webb asks City Administrator Dross who the people were who inquired about marijuana retail stores, what conversations happened before

the changes, and who referred the matter to the City Council. Commissioner Webb continues that a County Commissioner owning the store is not the issue, but that he is concerned about the “perception that the City changed the zoning” noting that he and some others didn’t know who the applicant was. Commission Chair Ronald Kerr clarifies that it doesn’t matter who started the initial process for this retail business. City Planner Jim Jacks clarifies that the property location of the retail marijuana dispensary wasn’t a zone change but a change. In the Lafayette Municipal Code when Oregon voters voted to legalize marijuana Lafayette allowed retail stores in the C-1/C-2 but there was a 1,000-foot buffer around public lands, daycares, and schools which was the main deterrent from dispensaries being in Lafayette, therefore the regulations were changed to remove the 1,000-foot buffer around public land and daycares. Commissioner Webb acknowledges that his concerns do not apply to the current application to change hours of operation, but states that he wants to preemptively answer possible questions from the public by asking the Council to declare any ex parte contact, getting the names of the “three” inquiries, and if the owner of the store County Commissioner Kitt Johnston was one of the three. City Administrator Dross addresses the Commission in response to Commissioner Webb's comments and questions stating he felt his professional integrity was in question, Commission Chair Ronald Kerr clarifies who supports marijuana doesn’t pertain to today’s hearing and recommends that if Commissioner Webb wants more information that he can personally do a public records request, and Commissioner Stephen Belding concurs. City Administrator Dross says that the three inquiries were phone calls in the past year asking if marijuana shops were allowed in Lafayette but those are not on a physical record, he goes on to add that after receiving the numerous calls he reached out to the Council to see if they wanted to discuss changing the regulations.

City Administrator Dross adds that during some of the public meetings the new owner of the store was in the room. Commissioner Webb apologized for the frustration that may have been caused by his statements and clarified he was not accusing anyone of anything and wanted to address perception. City Planner Jim Jacks begins the review of his staff report with the commission stating that the applicant is asking to extend the hours of a marijuana retail store from 10am-7pm to 7am-10pm through a major variance, City Planner Jacks goes over the decision criteria and confirms that all criteria have been met. Commission Chair Ronald Kerr asks if there are any proponents for or opposition to this major variance and there are none; Chuck Mitchell is either for or against but comments that the staff report is well done, and the commission has done their due diligence. Commissioner Jon Meola asks why these times were originally set and City Planner Jim Jacks clarifies that with the legalization of marijuana, the hours of operation were moved to the city or county level to allow them and set the hours of operation. Commissioner Belding asks if any of the commissions are opposed to the application, Commissioner Meola says he is not opposed, but adds that he did some research on other local marijuana retailers’ hours. Commissioner Scott Belding moved the Planning Commission approve the application, adopting the findings contained in the staff report, and direct the staff to prepare a Planning Commission Order for the Planning Commission Chairperson's

signature based upon the decision of the Planning Commission, Motion passes 5-0 (aye - Ron Kerr, Stephen Belding, Jon Meola, Roger Webb, David Rogers. Absent – Scott Adamson).

b. *Single Use Determination, SU 2024-01, 175 W 8<sup>th</sup> Street.*

Commission Chair Ronald Kerr and City Planner Jim Jacks read the planning commission procedures. No objections were raised to the jurisdiction of the Planning Commission, or the staff report on this matter. No conflicts or ex-parte contacts were disclosed. City Planner Jim Jacks read two letters from owners within 100-feet of the property; the first letter from Reyes Moreno and Nayeli Bahena shares concerns about the townhome being for renters thus causing issues in their neighborhood, City Planner Jim Jacks clarifies that often times townhouses are owned by the inhabitants and not rented out and points out that single-family homes can also be rented out as well. The second letter read by City Planner Jim Jacks by the Cartwrights opposing the rezoning that would allow this property to be developed with a townhome. City Planner Jim Jacks reviews his staff report with the Commission and clarifies that the city has allowed townhomes for over thirty years along with duplexes, this hearing is about the length of the common wall. City Planner Jim Jacks states that the applicant applied for a partition, 4,000 sq ft each; R-2 allows for attached single-family homes but the definition within the Lafayette Zoning and Development Ordinance says townhouse which does not provide clarification for the length of a common wall but assumes that the previous planning commission was imagining a traditional townhouse. City Planner Jim Jacks states there are no other comments than the previous letters which both do not pertain to the current hearing. Commission Chair Ronald Kerr states that if they had proposed a traditional townhome, we would not be having this hearing today, the two letters do not pertain to the criteria, this home is a creative solution and this can open a lot of precedent for the other types of townhomes, such as a second story breezeway being the connection between the homes. Matt Wilcuts is a proponent of this application as he is the property owner. Matt Wilcuts states that this design feels like a detached home with a connected storage space, he also asserts that from the outside it looks like a detached home, and this would fit better in the neighborhood than a duplex. Matt Wilcuts adds that they would love to clean up other properties and build them in Lafayette. The next proponent is Teresa Gilbert, she states that the code doesn't clarify what attached means and this design is ideal because there is less noise from a common wall, curb appeal, and lesser costs due to no firewall.

Commissioner Chair Ronald Kerr states that it is strange not to have a firewall between the homes and Teresa Gilbert states that since it isn't a large common and is within the garage it is up to the building code and they have asked their engineer to confirm that information. Commissioner Chair Ronald Kerr states that although it is not required it feels like the smartest thing to do for safety.

Commissioner David Rogers clarifies that there is also a firewall between the homes and the garages if a fire were to take place in the home, then there is that

firewall protecting the garage and shared wall. Teresa Gilbert provides a more detailed physical copy of the home floor plans to the commission. Teresa Gilbert states that this style of townhome would “probably” lead to better insurance prices and that this design is for a particular type of person. Teresa Gilbert states that they are trying to make it better for the homeowner and for everyone involved; she reiterates that this looks like a detached home while being a townhome and there would be less noise. Commissioner Jon Meola questioned Teresa Gilbert and stated that many people hide their garbage cans in the storage area, but the provided example photos all have garbage cans in front of the homes. Commissioner Chair Ronald Kerr states that whoever lives there will do whatever works best for them. The next proponent is Mark Wilcuts a developer and works in real estate as well, he first built this floorplan in Newberg with the idea to not make it look attached and now there are over 80 homes in this style in the area, referencing one of the letters concerned about resell value Mark Wilcuts states that this would not affect property value along and additionally making home improvements more affordable with more separation between the common space. Matt Wilcuts says the goal 100 years ago may have been to fit as many people into a city as possible but in a rural area today it is different. Mark Wilcut’s states this will benefit the community and fit in better than a scrunched-together townhouse with large side yards.

The final proponent is Chuck Mitchell from Yamhill, he states that he loves the creativity of the townhome and replacing the previous home with a newer build in the area saying it will improve the tax base, the community, the city and a great opportunity for a smaller builder instead of larger companies and that it’s important to remember land is limited in the Urban Growth Boundary and populations are growing. Matt Wilcuts asks to add one more comment; he states that they are going to local cities with this same proposal because this is an opportunity for first time home buyers or affordable housing. Chuck Mitchell asks to add one more comment; he shares that the city of Yamhill is approving, the same night, a rezoning within city limits to allow more properties like the townhouse. Commissioner Chair Ronald Kerr asks if there are an opponent in the audience and there are none; the only opponents’ concerns were shared in the initial two letters given to the city. Commissioner Chair Ron asks for comments that are neither for nor against the application. Mayor Malcolmson is not for or against the application but is wondering if the shared space between the homes would lead to the formation of an HOA for a shared common space and she points out that from the front of the home you would not be able to tell if the shared area is just a small room or runs the entire length of the home. City Planner Jim Jacks makes a procedural comment stating that the City Council may call up planning commission decision to the City Council and tonight’s decision has the possibility of being called up to the City Council and Mayor Malcolmson being here today may be read as a bias and recommends the planning commission does not answer Mayor Malcolmson’s questions.

Commission Chair Ronald Kerr closes the hearing for the application and the planning commission begins discussion on the application. Commissioner Chair Ronald Kerr states that population size is growing and housing is needed with limited available land, and this leads to more variety and considering the future is important. Commissioner Jon Meola asks if this would allow for underground attachments and City Planner Jim Jack's states there is nothing in the ordinance that regulates that. Commissioner Jon Meola asks what would happen if there was damage to the shared storage unit would need to be replaced in a set amount of time or removed altogether; Commission Chair Ron Kerr continues with Commissioner Jon Meola's question asking if someone removed the storage unit and close the walls then the houses would be 5 feet apart and would become a non-conforming use. City Planner Jim Jacks states that it would be illegal if the connecting area was removed and that it is not a non-conforming use but rather an enforcement issue.

Commissioner Roger Webb brought up that is about original interpretation vs. literal interpretation, there is a lack of specificity in the language, and when trying to find a precedent the commission must pick between the assumed intentions of the people who put the regulation into place and the literal interpretation. Commissioner David Rogers states that this is a good idea for the housing problem and curb appeal but asks where we draw a line, what if someone requests just a 1-foot common wall or a quarter inch? Commission Chair Ronald Kerr states if you remove the townhouse and instead say attached dwelling homes then it applies, with a minimum length of 4 feet. Commission Chair Ronald Kerr moved to approve the adoption staff report and direct the staff to prepare a planning commission order stating attached dwelling developments must be attached along a minimum distance that is at least 4 feet at the length of the common wall, Commissioner David Rogers seconds the motion, motion passed 5-0 (aye - Ron Kerr, Stephen Belding, Jon Meola, Roger Webb, David Rogers. Absent – Scott Adamson).

**6. APPROVAL OF MINUTES:**

a. *October 17, 2024, Planning Commission Meeting*

Commissioner Meola moves to approve October 17, 2024, Planning Commission Minutes, Commissioner Belding seconds. Motion passed 5-0 (aye - Ron Kerr, Stephen Belding, Jon Meola, Roger Webb, David Rogers. Absent – Scott Adamson).

**7. WORK SESSION:**

a. *Housing Amendments (LA 2024-01)*

City Planner Jacks states that he has nothing new to add at this time as he has been focused on the FEMA model ordinance. The housing amendments are moved to the December meeting for a work session and then a hearing in January.

**8. NEW BUSINESS:**

a. City Planner Jim Jacks provides historical context as to why the FEMA floodplain insurance program is on the agenda. FEMA Region 10 sent out notices to cities and counties to decide on the approach that the city's government would be taking. During the November 14<sup>th</sup> meeting the City Council adopted the model

ordinance based on the state and federal government standards. City Planner Jacks shares how he has been working on drafting the model ordinance. City Planner Jacks is requesting that the public hearing be held at the January meeting and states that in December hopefully before the December meeting he will send out the model ordinance to be reviewed by the Commissioners. Chair Kerr notes that having the public hearing in January would miss the December 1<sup>st</sup> deadline, City Planner Jacks clarifies that the city must notify FEMA Region 10 of the option that City Council selected by December 1<sup>st</sup> but that after pushing back the deadline to implement is no longer December 1<sup>st</sup>. City Planner Jacks shares a couple of new regulations that will need to be adopted to protect endangered species, such as a riparian buffer zone and other mitigation factors. City Planner Jacks shares that due to the sloping only a few properties in Lafayette are in the flood plain zone and if it is only a very small percentage of the land within the flood plain, the City Public Works property is the most affected by the regulations.

## **9. OLD BUSINESS:**

### *a. Lafayette Parks Master Plan, Chapter 5- Proposed Park Amendments*

City Administrator Dross states that the turnout for the October 30<sup>th</sup> virtual town hall was lower than expected and that after discussions with the Council, it was decided that after Councilor Elect Reed comes on board and the new terms are sworn in a joint work session will be held likely in February with the Planning Commission and Council. Then additional efforts will be made to get more community engagement. Commissioner Roger Webb suggests inviting local sports clubs and McMinnville's Parks and Recreation for more engagement, City Administrator Dross says that it will be open to anyone who has an interest. City Administrator Dross shares possible dates for the work session.

### *b. Lafayette Zoning and Development Ordinance Section 2.206.06*

City Planner Jacks shares with the Commission that the signage during election season is the lowest priority due to election season being over. City Administrator Dross states that City Planner Jacks mostly covered this section and adds working on the sign code will be coming back in 2025 given the next election year isn't until 2026.

## **10. COMMISSIONER COMMENTS**

No commissioner comments. City Planner Jacks notifies the Commission that the city has just received a zone change application that would likely be coming to the Planning Commission.

## **11. NEXT MEETING:**

### *a. December 19, 2024*

No discussion.

## **12. ADJOURNMENT:**

Commissioner Webb moved to adjourn the meeting. Commissioner Belding seconded; the motion passed 5-0 (aye - Ron Kerr, Stephen Belding, Jon Meola, Roger Webb, David Rogers. Absent – Scott Adamson).

Minutes approved on the 19<sup>th</sup> day of December 2024.

CERTIFIED:

ATTESTED:

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Ron Kerr, Chair

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Kennedee Richardson, City Recorder

DRAFT





TO: LAFAYETTE PLANNING COMMISSION

FROM: JIM JACKS, CITY PLANNER

SUBJ: WORK SESSION: HOUSING AMENDMENTS TO COMPLY WITH LEGISLATION FROM THE 2019 TO THE 2024 LEGISLATIVE SESSIONS (LA 2024-01)

DATE: DECEMBER 19, 2024

The list of the proposed amendments is in Section II, on page 10. The “mark-up” version of the proposed amendments is in Section III, on page 21.

## I. BACKGROUND – OREGON LEGISLATIVE ACTIONS FOR HOUSING

In the last several legislative sessions the Legislature passed many bills to address the housing shortage including the significant shortage of affordable housing. The following summarizes the housing Bills passed by the Oregon Legislature starting in 2017 through the 2024 Session which ended March 7, 2024.

Although this staff report begins with the 2017 Legislative session, as noted below, the City has amended the LZDO to be consistent with the bills passed in the 2017 and 2019 sessions – no housing bills affecting Lafayette were passed in the 2018 session.

Abbreviations: HB: House Bill, a bill initiated in the House.

SB: Senate Bill, a bill initiated in the Senate.

LZDO: Lafayette Zoning and Development Ordinance – the City’s zoning regulations.

The following is a summary of each Bill from the 2017 Legislature through the 2024 Legislature related to housing and the approval processes related to housing projects. Some provisions of the various Bills require the LZDO be amended. The summaries do not go into the details, for example, many of the Bills include definitions for terms that would be amended into the LZDO. When the information is available, a follow-up sentence states the Oregon Revised Statute number(s) that was amended by a Section of the Bill.

### 2017 Legislature

Senate Bill (SB) 1051 was passed by the Legislature and it addressed several housing issues.

1. Senate Bill (SB) 1051, Section 6, required cities of 2,500 or greater population to allow accessory dwelling units (ADU) as a permitted outright use in all residential zones that allow detached single family dwellings as permitted uses (SB 1051, Section 6). Cities could adopt “reasonable” ADU standards.

As of July 1, 2017 the State estimated Lafayette’s population to be 4,095, therefore, Lafayette was required to comply with SB 1051’s ADU requirement.

SB 1051, Section 6, amended ORS 197.312 to add Subsection 197.312(5) which included the ADU requirements. In the 2019 Legislature HB 2001, Section 7, again amended 197.312 (see 2019 Legislature, below).

**The City initiated a legislative amendment (case # LA 2018-01) to bring the Lafayette Zoning and Development Ordinance (LZDO) into compliance with SB 1051, Section 6 (ORS 197A.425 as of April 18, 2024). The LZDO was amended per Ordinance 635 (June 14, 2018) to allow ADU’s in the Low Density Residential (R-1) District and the Medium Density Residential (R-2) District. ADU’s were already allowed in the Residential Commercial (RC) District. No further action is needed regarding SB 1051, Section 6.**

2. SB 1051, Section 4, amended ORS 197.303 and clarified that all housing is “needed housing.” “Needed housing” is a term in ORS 197.303 and 197.307(4).

Prior to SB 1051 there were one or more housing types that were not identified as “needed housing.” For example, some cities that had voluntarily allowed ADU’s prior to HB 1051 did not consider them to be “needed housing” and it appeared that ORS 197 did not identify them as “needed housing.” Senate Bill 1051, Section 4, made it clear that all housing is “needed housing,” whether it is an ADU or a million-dollar home.

The issue with “needed housing” is, local approval standards regarding “needed housing” must be clear and objective, therefore, after SB 1051, zoning regulations applying to “needed housing,” from ADU’s to million-dollar homes, must be clear and objective.

Prior to SB 1051, ADU’s were not “needed housing” and therefore they were not affected by the requirement in ORS 197.307(4) that “needed housing” be subjected only to clear and objective standards. The cities that voluntarily had allowed ADU’s prior to SB 1051, typically, included one or more subjective standards. They were often worded similar to the following examples:

*An ADU’s appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit, including roof pitch, eaves, window fenestration patterns, etc. (emphasis added)*

*An ADU’s siding and roofing materials shall be similar to the siding and roofing materials of the primary dwelling or to materials typical of single family construction in the city. (emphasis added)*

The terms “coincide” and “similar” are subjective and require the exercise of judgment to determine if the ADU’s appearance coincides, or if the ADU’s siding and roofing materials are similar.

SB 1051, Section 4, prohibits subjective standards for ADU’s such as the above examples.

SB 1051, Section 4, amended the then ORS 197.303(1) to more clearly define “needed housing.” A later Bill moved 197.303, to ORS 197A.400.

**The City initiated a legislative amendment (case #LA 2018-01) to bring the LZDO into compliance with SB 1051, Section 4 (which amended ORS 197.303). The LZDO was amended per Ordinance 635 (June 14, 2018) to subject ADU’s only to clear and objective standards. No further action is needed regarding SB 1051, Section 4.**

3. SB 1051, Section 8 clarified the types of uses allowed at a place of worship and included a requirement that affordable residences be allowed at a place of worship when the property is in a residential district. At least half of the residential units must be affordable to households with incomes equal to or less than 60 percent of the County’s median family income. The 60 percent requirement must be in a covenant and effective for 60 years.

SB 1051, Section 8, amended ORS 227.500(1) to more clearly state the uses allowed on a property occupied by a church, synagogue, temple, mosque, chapel, or meeting house. ORS 227.500(1) was amended to allow housing that is detached from the place of worship provided at least 50% of the units were affordable to households with incomes equal to or less than 60 percent of the County’s median income. ORS 227.500(4) was added to require a covenant appurtenant restricting the housing to be affordable for a minimum of 60 years.

The 2021 Legislature’s, HB 2008, moved the housing provisions to another ORS.

The practical effect of Section 8 was negligible in Lafayette because there were no places of worship in a residential district. One place of worship is in the city limits, i.e., the Lafayette Community Church, on the south side of 3<sup>rd</sup> (99W) between Jefferson and Adams in the Commercial Core (C-1) District.

**The City initiated a legislative amendment (case #LA 2018-01) to bring the LZDO into compliance with SB 1051, Section 8 (which amended ORS 227.500). The LZDO was amended per Ordinance 635 (June 14, 2018) to bring it into compliance with SB 1051, Section 8. No further action is needed regarding SB 1051, Section 8.**

SB 1051 included additional sections that addressed Oregon’s housing shortage and especially the shortage of affordable housing, but they did not apply to the City of Lafayette.

Four years later in 2021 the Legislature passed HB 2008 and its Section 5 amended the language in SB 1051, Section 8 (ORS 227.500). See the 2021 Legislature, HB 2008, Section 5, p. 5, below. As noted below an amendment to the LZDO is included in this 2024 legislative process (case # LA 2024-01) to address the language in HB 2008, Section 5.

#### 2018 Legislature

No bills were passed in the 2018 Legislature requiring the City of Lafayette to amend the LZDO.

#### 2019 Legislature

1. House Bill (HB) 2001 addressed “middle housing” for medium and large cities (greater than 10,000 population). The majority of HB 2001’s provisions do not apply to Lafayette because the City’s population is less than 10,000. HB 2001 required cities of 10,000 to 24,999 population to adopt certain housing regulations, and required cities of 25,000 and greater population, that are not in the Portland Metro Area, to adopt certain housing regulations, and cities in the Portland Metro Area to adopt certain housing regulations.
2. HB 2001, Section 7, amended the State’s ADU law set forth in SB 1051 (2017 Legislature) (ORS 197.312 at that time – ORS 197A as of December 2024). Section 7 clarified that a “reasonable” ADU regulation cannot include a requirement to provide on-site parking spaces for an ADU, nor can it include a requirement for the property owner to live in the primary dwelling or in the ADU.

HB 2001, Section 7, amended ORS 197.312(5)(b) to add 197.312(5)(b)(**B**) to read (see underlining below):

*(5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single family dwellings the development of at least one accessory dwelling unit for each detached single family dwelling, subject to reasonable local regulations relating to siting and design.*

*(b) As used in this subsection:*

*(A) "Accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.*

*(B) "Reasonable local regulations relating to siting and design" does not include owner occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking.*

**The City initiated a legislative amendment (case #LA 2020-01) to bring the LZDO into compliance with HB 2001, Section 7 (which amended ORS 197A.425 as of April 18, 2024). The LZDO was amended per Ordinance 640 (January 13, 2022) to delete the ADU parking and ownership standards. No further action is needed regarding HB 2001, Section 7.**

HB 2001, Section 7, also amended ORS 197.312 to add 197.312(**6**) to state):

*(6) Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.*

**Section 7 (ORS 197.312(6)) does not apply to Lafayette because short term rentals (STR) ("vacation occupancies") are not allowed in Lafayette. No action is needed regarding HB 2001, Section 7.**

#### 2020 Legislature

The 2020 Legislature passed only 3 bills, none of which were related to land use planning. For most of the session the Oregon Constitution's requirement for a quorum to enact legislation was not met. The Oregon Department of Land Conservation and Development Department's "2020 Land Use Legislation Report" stated the following:

*Due to the unusual circumstances surrounding the 2020 Oregon legislative session, 258 bills were proposed and only three were passed into law.*

#### 2021 Legislature

1. House Bill (HB) 2008, Section 1, amended ORS 197.286 to 197.314. Section 1 requires cities to allow affordable housing (per the definition of "affordable housing" in Section 1) in commercial and industrial zoning districts (without a zone change or conditional use permit) provided specified affordable housing requirements are met.

NOTE: ORS 197.311 is now 197A.445.

The August 2021 DLCD bill summary report described HB 2008 in part as, limiting local government restrictions on affordable housing provided by religious nonprofit corporations to health, safety, habitability, and infrastructure concerns. Also, local governments are required to approve affordable housing developments on any parcels zoned other than industrial, or that are contiguous with residential zoned parcel without requiring those parcels be rezoned as residential.

For affordable housing in a commercial zoning district, there are many requirements to be met, but the primary requirements are (1) the housing is owned by a public body (e.g., a city, a county or a public Housing Authority) or a nonprofit corporation that is organized as a religious corporation, and (2) the property is zoned for commercial uses and also allows “religious assembly” as a permitted use.

For affordable housing in an industrial zoning district, the primary requirements are (1) the housing is owned by a public body (e.g., a city, a county, or a public Housing Authority) (2) the property is adjacent to lands zoned for residential uses or schools, and (3) the property is not specifically zoned for heavy industrial uses.

**The City has initiated this legislative process (case # LA 2024-01) to amend the LZDO, Section 2.105, Commercial Core District (C-1), and Section 2.106, Commercial General District (C-2) to comply with the amended ORS 197.286 to 197.314.**

**The Industrial District, Section 2.107, is not proposed to be amended because the LZDO includes only one industrial district and it allows heavy industrial uses.**

2. House Bill 2008, Section 5, amended ORS 227.500(1)(g) which SB 1051 (2017 Legislature) had amended into ORS 227.500 in 2017. Section 5 deleted the language in ORS 227.500(1)(g)(A), (B) and (C). Subsection (g) related to “Providing housing or space for housing in a building or buildings that are detached from the place of worship, provided” A – C are met.

Section 5 also deleted the language in ORS 227.500(4) which required 60 percent of the housing be affordable and the affordability requirement must be in a covenant and effective for 60 years.

**The City has initiated this 2024 legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 2008, Section 5. The LZDO Residential Agriculture (RA) District, the Low Density Residential (R-1) District, the Medium Density Residential (R-2) District and the Residential Commercial (RC) District are proposed to be amended to comply with HB 2008, Section 5. For example, in the RA District Subsection 2.101.06, G, is proposed to be amended to delete the last phrase “...and is not required to comply with Subsection H, 1 – 4, below.” Additionally, Subsection 2.101.06, H, 1 – 4, regarding affordable housing on a house of worship property in a residential district is proposed to be deleted. Similarly, the same deletions are proposed in the R-1 (Section 2.102.06), R-2 (Section 2.103.06) and RC (Section 2.104.06) Districts.**

3. House Bill 2583, Section 1, addressed maximum occupancy limits for residential dwelling units. It states:

*A maximum occupancy limit may not be established or enforced by any local government, as defined in ORS 197.015, for any residential dwelling unit, as defined in ORS 90.100, if the restriction is based on the familial or nonfamilial relationships among any occupants.*

**The City has initiated this legislative process (case # LA 2024-01) to amend the LZDO 1.200.02, Definitions, to comply with HB 2583, Section 1.**

4. Senate Bill 405, Section 2, requires City land use regulations that allow the resumption of a nonconforming use after its interruption or abandonment, to not consider a use interrupted or abandoned during the time that a federal, state or local emergency order limits or prohibits the use or the repair or replacement of the use. SB 405, Section 2, states:

*“City land use regulations that allow the resumption of a nonconforming use after its interruption or abandonment may not consider a use interrupted or abandoned during the time that a federal, state or local emergency order limits or prohibits the use or the repair or replacement of the use.”*

The new Oregon Revised Statute 227.283, Regulations Applicable to Resumption of Nonconforming Uses, was added to and made a part of ORS chapter 227 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

In its entirety, ORS 227.283 states, “City land use regulations that allow the resumption of a nonconforming use after its interruption or abandonment may not consider a use interrupted or abandoned during the time that a federal, state or local emergency order limits or prohibits the use or the repair or replacement of the use.”

SB 405, Section 2, does not directly address the State’s housing shortage or the shortage of affordable housing, but if a dwelling is a nonconforming use and its residential use is discontinued for more than 12 months due to, say, a wildland fire, storm or other natural disaster where an emergency has been declared by local, State or Federal officials, the time it is not used as a residence during the emergency cannot be counted toward the 12 month period.

**The City has initiated this legislative process (case # LA 2024-01) to amend the LZDO, Section 3.109.03, Discontinuation of Use, to comply with SB 405, Section 2.**

#### 2022 Legislature

1. HB 4051 followed-up on some issues from the 2021 Legislative Session. One issue relates to affordable housing.

Section 4, amended ORS 197.308 regarding allowing affordable housing on commercial and industrial lands provided criteria are met. See 2021 Legislature, HB 2008, Section 1 on pages 4 and 5.

**The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with the amended ORS 197.308.**

2. HB 4064, Section 1, adds and deletes language from ORS 197.314 with the net result that cities must allow manufactured homes and prefabricated dwellings on land zoned to allow single family dwellings with standards related to protective measures and the external thermal envelope. The LZDO does not now specifically allow prefabricated dwellings.

Section 1 also prohibits applying standards to manufactured homes and prefabricated dwellings that would not apply to site-built single family dwellings.

Section 2 amends ORS 197.307 to delete the language that required manufactured homes sited on individual lots to meet standards that do not also apply to site-built dwellings, for example, to be multi-sectional, to be at least 1,000 square feet in area, to be placed on an excavated and back filled



foundation and not more than 12-inches above grade, to have a pitched roof, to have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings, to have a garage or carport of like materials or shall have a detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

Section 3 does not allow a city to prohibit the placement of a prefabricated structure in a mobile home park or a manufactured dwelling park.

Section 4 does not allow a city to prohibit the placement of a prefabricated structure in residential zoning districts.

Section 5 amends ORS 197.286 and includes definitions of “manufactured dwelling,” “manufactured dwelling park,” “manufactured home,” and “mobile home park” as defined in ORS 446.003, and “prefabricated structure” as defined in ORS 455.010.

4064, Sec 5, adds A DEF OF PREFABRICATED DWELLING. 197.286(5) **“Prefabricated structure” means a prefabricated structure, as defined in ORS 455.010, that is relocatable, more than eight and one-half feet wide and designed for use as a single family dwelling.**

**The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with the amended ORS 197.314.**

#### 2023 Legislature

1. HB 2001 (not the same as HB 2001 in the 2019 Legislature). The August 25, 2023 Department of Land Conservation and Development legislative summary described the bill as follows:

*HB 2001 updates the statutory framework implementing Goal 10 [Housing] to emphasize a measurable and accountable approach to housing production that provides needed units at all levels of affordability, promotes a greater range of housing options and types, and affirmatively furthers fair housing.*

**HB 2001 did not include provisions requiring amendments to the LZDO.**

2. HB 3395 was an omnibus housing bill where many of its Sections do not apply to Lafayette. HB 3395, Sections 20 - 23, amend ORS 197.758. Cities with a population of 2,500 or greater and less than 25,000 must allow a duplex on each lot or parcel zoned for residential use that allows a detached single family dwelling. The minimum lot size for the single family dwelling and the duplex must be the same (a prior Bill required cities 25,000 and greater to allow duplexes on a property that allows a detached single family dwelling).

**The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 3395, Section 20.**

3. HB 3395, Section 2, requires vacant land in cities that is zoned only for commercial uses to (1) allow housing units available to those households making less than or equal to 60% of the area median income (subject to an affordable housing covenant), and (2) allow mixed use structures with ground floor commercial for those households with moderate incomes (subject to an affordable housing covenant) as defined in ORS 456.270 (80 – 120% of area median income).

Development allowed per Section 2 does not apply to lands where the local government determines that:

1. The property cannot be served by adequate water, sewer, storm water drainage or streets.
2. The property contains a slope of 25 percent or greater.
3. The property is within the 100-year floodplain.
4. The property is constrained by land use regulations based on the Statewide Planning Goals relating to natural disasters or hazards or natural resources, including air, water, land or natural areas, but not open space.
5. The property is vacant or it was added to the urban growth boundary within the last 15 years.

**The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 3395, Section 2.**

4. HB 3395, Section 4, allows cities flexibility in the required 120-day period within which a decision must be made and all local appeals resolved for a residential permit, a limited land use decision or a zone change. The time period may be extended up to 7-days “to ensure the sufficiency of the final order.” Section 4 applies to the process wherein a party would file a Notice of Intent to Appeal a city decision to the Land Use Board of Appeals (LUBA), regarding a residential development. Additionally, a city may withdraw a final decision for reconsideration. These provisions are intended to reduce appeals that can delay the development of housing by providing more time to address issues before they are appealed to LUBA.

**The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to include the 7-day period allowed “to ensure the sufficiency of the final order.”**

5. HB 3395, Sections 17 and 18, defines Single Room Occupancies (SROs) and requires cities to allow SROs with up to 6 units on each lot zoned for single family detached housing. If the zoning allows the development of 5 or more dwelling units per acre, then a SRO development must be approved up to the number of units allowed by the underlying density standard.

**The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 3395, Sections 17 and 18.**

6. HB 2984 (8/15/2023 and effective 1/1/2024) and HB 3442 (passed & effective upon passage) were similar bills and both were passed. HB 2984, Section 1a, stated if HB 3442 passed, then HB 3442 governs. HB 3442 passed and its Section 1 amended ORS 197.308 (Affordable housing allowed outright) to require cities to allow the conversion of commercial buildings to affordable housing, and may not require a zone change or conditional use permit for affordable housing, provided the zoning allows commercial uses, religious assembly, or public uses. Additional requirements apply, but are not listed here.

Additionally, Section 1 requires cities to allow affordable housing, and may not require a zone change or conditional use permit for affordable housing, provided the zoning allows industrial uses, is adjacent to lands zoned for residential uses or schools, is not specifically designated for heavy industrial uses, and if the property is publicly owned. Additional requirements apply, but are not listed here. For the industrially zoned lands, no amendments are proposed because the LZDO includes only one industrial district and it allows heavy industrial uses, therefore, in accordance with Section 1, affordable housing is not proposed to be allowed in the LZDO’s only industrial district.



**The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 3442, Section 1, except for lands zoned industrial.**

2024 Legislature

7. SB 1537, Sections 38 to 43. The March 11, 2024 Department of Land Conservation and Development legislative summary describes Sections 38 to 43 as follows:

*Requires local governments to allow land use adjustments,....*

The LZDO uses the terms “Minor Variance” and “Major Variance” for applications that request a reduction in a development requirement.

For the purposes of SB 1537, an “adjustment” application is only to reduce housing development standards. Section 38 sets forth numerous requirements, maximums and minimums, and requires only one of the seven approval criteria be met.

Regarding the process to administer an “adjustment” application, Section 38(3) states in part:

*(3) A decision on an application for an adjustment made under this section is a limited land use decision.*

See #8 following for SB 1537, Section 44’s amendments to the limited land use definition and process.

Regarding the process to administer an “adjustment” application, Section 38(3)(b) states in part:

*(3) In implementing this subsection, a local government may:*

*(a) [ Not shown here. ]*

*(b) Directly apply the process set forth in this subsection.*

Because the adjustment process and standards sunset on January 2, 2032, staff recommends the “adjustment” provisions of SB 1537 not be amended into the LZDO – Section III of this report (the “mark-up,” language) does not show the “adjustment” provisions added to LZDO. When a SB 1537 “adjustment” application is submitted to the City, the applicant and the City would directly apply the process and standards set forth in Section 38 and the City would issue a decision.

Sections 39 and 40 allow a city to be exempt from Section 38 as determined by the State Housing Accountability and Production Office, and the exemption provision expires on January 1, 2025.

Section 41 requires information be reported to the State.

Section 42 establishes an effective date of January 1, 2025 for the “adjustment” provisions in Sections 38 to 43.

Section 43 says the adjustment provisions “sunset” on January 2, 2032.

**The City has initiated this 2024 legislative process (case # LA 2024-01) and chooses not to amend the LZDO to comply with SB 1537, Sections 38 – 43, and instead chooses to directly apply the process set forth in Section 38 as each application is submitted.**

8. SB 1537, Section 44. Amends ORS 197.015 and 197.195 regarding Limited Land Use decisions. The April 2024 League of Oregon Cities “Bill Summary” describes Section 44 as follows:

*Directing cities to process housing development applications requesting partitions and other property boundary changes; site plan review; nonconforming use cases; or adjustments to land use regulations, as limited land use decisions (effective January 1, 2025);*

The current language of ORS 197.015(12)(a) establishes that an application for a Tentative Plan for a subdivision or a partition, and a Site Development Review are Limited Land Use decisions. The Bill amends the definition of “Limited land use decision” in ORS 197.015(12) to include an application for a replat, a property line adjustment and for applications which request an “extension, alteration or expansion” of a nonconforming use.

The Bill also amends ORS 197.195 (Limited land use decision; procedures) to clarify a limited land use decision is an administrative process where, in Lafayette, the City Administrator would be the decision authority. No public hearing is allowed. Notice is mailed to nearby owners whose written comments within the comment period will be considered by the decision authority.

**The City has initiated this 2024 legislative process (case # LA 2024-01) to amend the LZDO to comply with SB 1537, Section 44.**

## II. LIST OF PROPOSED LZDO AMENDMENTS

The following is the list of the proposed amendments to the LZDO. They are in the order of the LZDO’s section numbers.

The numbering will be adjusted once all the proposed new definitions are listed.

### GENERALLY

Throughout the LZDO, Section and Subsection numbers are mentioned, but often, the Section or Subsection’s name (title) is not included leaving the reader to wonder what the cited section addresses. The reader is forced to look through the LZDO to determine what the cited section addresses which is inefficient and can be an impediment to understanding the LZDO. Where sections are proposed to be amended to address housing issues and a section is cited without stating its name, the name is proposed to be added.

Similar to the above, when a section is proposed to be amended, if an inconsistency or unclear language was found, it is proposed to be amended to remove the inconsistency or unclear language.

Throughout the LZDO, when terms are in lists, often there is no punctuation at the end of each listed item. Where Sections and Subsections are proposed to be amended and a term is listed with no punctuation, the appropriate punctuation is added.

### 1.200 DEFINITIONS

1. 1.200.02, Definitions. Propose amending the Lafayette Zoning and Development Ordinance (LZDO) regarding definitions as shown below.

Propose deleting the definition of Child Care Facility and replacing it with the definitions of “Child Care Center” and “Child Care Home” (ORS 329A.440).

Propose incorporating the clarification in HB 2583, Section 1, that definitions of housing must not refer to “families” or to a specific number of family members.

Dwelling, Multi-family – Dwelling, Multi-unit.  
Dwelling, Single-family attached – Dwelling, Single-unit attached.  
Dwelling, Single-family detached – Dwelling, Single-unit detached.  
Dwelling, Two-family (Duplex) – Dwelling, Two-unit (Duplex).  
Dwelling unit.

House Bill 2583, Section 1, addressed maximum occupancy limits for residential dwelling units. It states:

*A maximum occupancy limit may not be established or enforced by any local government, as defined in ORS 197.015, for any residential dwelling unit, as defined in ORS 90.100, if the restriction is based on the familial or nonfamilial relationships among any occupants.*

ORS 90.100(12) states:

*Dwelling unit” means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. “Dwelling unit” regarding a person who rents a space for a manufactured dwelling or recreational vehicle or regarding a person who rents moorage space for a floating home as defined in [ORS 830.700 \(Definitions for ORS 830.060 to 830.140 and 830.700 to 830.870\)](#), but does not rent the home, means the space rented and not the manufactured dwelling, recreational vehicle or floating home itself.*

Propose retaining the definition of “Manufactured Home” and “Manufactured Home Subdivision, adding a definition of “manufactured dwelling,” amending the definition of “manufactured home park,” and adding a definition of “Manufactured Dwelling Space.”

Propose amending the definition of “Partition” to be consistent with ORS 92.010(7) which defines “Partition” as “...an act of partitioning land or an area or tract of land partitioned.”

Propose adding definition of “modular or prefabricated structure” as defined in ORS 455.010 to comply with HB 4064, Section 5 (2022) as it amended ORS 197.286.

Propose adding definition of “single room occupancy,” as defined in HB 3395, Section 17 (2024), amending ORS 197.758.

## 2.101 RESIDENTIAL ACREAGE DISTRICT (RA)

2. 2.101.02, Permitted Uses. Propose adding “duplex” as a permitted use to Subsection A in the RA District to conform with HB 3395, Section 20 (2023 Legislature).
3. 2.101.02, Permitted Uses. Propose adding Subsection L, “single room occupancy,” as a permitted use in the RA District to conform with HB 3395, Section 20 (2023 Legislature).

4. 2.101.04, A, Minimum Lot Size. Propose establishing a 5-acre minimum lot size for single room occupancy because the minimum lot size for any use in the RA District is 5-acres.

## 2.102 LOW DENSITY RESIDENTIAL (R-1) DISTRICT

5. 2.102.02, Permitted Uses. Subsection A, allows detached single family dwellings as permitted uses. Propose adding “duplex” as a permitted use in the R-1 District to conform with HB 3395, Section 20 (2023 Legislature).  
  
2.102.02, Permitted Uses. Propose adding Subsection L, “single room occupancy,” as a permitted use in the RA District to conform with HB 3395, Section 20 (2023 Legislature).
5. 2.102.02, B, Permitted Uses. Subsection B lists “Manufactured Homes on Individual Lots” as a permitted use and it includes a citation to Section 2.305, but it doesn’t say what Section 2.305 covers. Propose adding, at the end of Subsection B, “Manufactured Homes on Individual Lots.”
6. 2.102.02, C, Permitted Uses. Subsection C allows Mobile Home Parks as a permitted use, but does not also list Manufactured Home Park as a permitted use. The term Mobile Home is used to describe units manufactured prior to 1976 when the Federal manufactured home standards were revised to be consistent with site-built housing. The term Manufactured Home is used to describe units manufactured after the Federal standards were adopted in 1976. Propose adding “or manufactured home park” as a permitted use in the R-1 District to clarify that a Manufactured Home Park is also a permitted use in the R-1 District.
7. 2.102.02, D, Permitted Uses. Subsection D allows Accessory Structures or Uses as a permitted use, but it does not refer to Subsection 2.209.10 which contains the accessory structure standards. Propose adding “subject to the provisions of Subsection 2.209.10, Accessory Structures,” to clarify that accessory structures and uses must comply with the accessory structure standards in Subsection 2.209.10.
8. 2.102.03, A, Conditional Uses. Subsection A lists “Duplex” as a conditional use. Propose deleting “Duplex” because, above, duplexes are proposed to be added as a Permitted Use which necessitates deleting duplexes as a Conditional Use, to comply with HB 3395, Section 20 (2023). Renumber Subsections B – G to be A – F.
9. 2.102.03, B, Conditional Uses. Subsection B lists “Public facility or government structure” as a Conditional Use. Propose adding “or use” at the end to clarify a “government structure or use” is allowed.
10. 2.102.04, A, Dimensional Standards. Subsection A, 2, currently includes a 7,500 square foot minimum lot size for detached single family dwellings and a 10,000 square foot minimum lot size for duplexes. However, due to HB 3395 (2023) and Oregon Administrative Rule 660-046, Middle Housing, the minimum lot size for a duplex in the R-1 District can be no greater than the minimum lot size for a detached single family dwelling in the R-1 District. Propose reducing the minimum lot size for duplexes from 10,000 to 7,500 square feet.
11. 2.102.04, A, Dimensional Standards. Propose Subsection 2.102.04, A, be amended to include a minimum lot size for single room occupancies. HB 3395, Section 17, requires the number of SRO units be “...consistent with the density standards of a lot or parcel zoned to allow for the development of residential dwellings with five or more units.” The R-1 zone’s minimum lot size

is 7,500 square feet which is a density of 5.8 dwelling units per acre (43,560 sq. ft. / 7,500 = 5.8 dwelling units per acre). For a 6 unit SRO, the minimum lot size would be 45,000 square feet (6 units X 7,500 sq. ft. per unit = 45,000 sq. ft.).

What appears to be unclear language in HB 3395, Section 17, may not intend to require a 45,000 square foot minimum lot size for a 6 unit SRO. The closest approximation in the R-1 Zone is a duplex with a minimum lot size of 7,500 square feet (multi-family dwellings are not an allowed use in the R-1 Zone). The 7,500 square foot minimum lot size for a duplex is 3,750 square feet per unit (7,500 / 2 = 3,750).

11. 2.102.04, A, Dimensional Standards. Subsection A, 4, lists “Mobile home parks,” and that they must be on a property of at least 1 acre. Subsection A, 4, does not include “manufactured home parks.” Propose adding “manufactured home parks” to clarify that “manufactured home parks” must also be at least 1 acre in size.
12. 2.102.04, B, Minimum Yard Setbacks. Subsection B, 1, a, establishes a 15 foot front yard setback and a 20 foot front yard setback for garages (to allow a vehicle to park in front of the garage door). Subsection B, 1, b, c and d, for rear yards, interior side yards and side yards adjacent to a street, respectively, are silent on the setback to a garage when the door faces a rear property line, an interior side property line or a side property line adjacent to a street. Propose adding a 20 foot setback to a garage that is accessed from a rear property line, an interior side property line or a side property line adjacent to a street.
13. 2.102.04, B, Minimum Yard Setbacks. Subsection B, 1, states “All structures shall maintain the following minimum yard setbacks:” and lists the setbacks in Subsubsections 1, a – d. The word “All” means both the principal and accessory structures must comply with Subsubsections 1, a – d. Propose adding “principal” after “All” and before “structures” to read “All principal structures...,” because Section 2.209.10 contains the setback standards for accessory structures. Because B, 1, with the proposed amendment, would refer only to principal structures, a new B, 2, is needed to address accessory structures – see following.
14. 2.102.04, B, Minimum Yard Setbacks. Consistent with the above proposed amendment, propose amending 2.102.04, B, to add a new 2.102.04, B, 2, which would refer to the setback standards for accessory structures. Because the accessory structure setback standards are set forth in Section 2.209.10, the new B, 2, would refer to Section 2.209.10. For example, “All accessory structures shall comply with Section 2.209.10, Accessory Structure Standards.”
15. 2.102.04, C, Minimum Structure Height. Subsection C, 2, states the maximum structure height for an accessory structure is 20 feet in the R-1 District. But Section 2.209.10, Accessory Structure Standards, Subsection 2.209.10, B, 2, states the maximum height is 20 feet, *except that no accessory structure shall exceed the height of the primary building*. Propose amending the R-1 District to include the phrase, “except that no accessory structure shall exceed the height of the primary building” to ensure the two sections are consistent.
16. 2.102.05, Development Standards. Subsection C, Lot Coverage, includes incomplete language for the lot coverage standard. No more than 35% of a lot can be covered by buildings and 30% by parking/driveway area. The statement of the combined coverage includes parking coverage, but it does not include “building” coverage. Propose adding “building” coverage.
17. 2.102.06, House of Worship Uses. Subsection 2.102.06, G, addresses market-rate housing development on house of worship properties in residential districts. Subsection 2.102.06, H, addresses affordable housing on house of worship properties in residential districts. The

LZDO, Section 2.102.06, implements ORS 227.500 which was amended by the Legislature in 2017 and 2021. Propose deleting Subsections G and H to bring the LZDO into conformance with ORS 227.500 as set forth in the 2023 Edition of the Oregon Revised Statutes. HB 2008, Section 5 (2021 Legislature).

### 2.103 MEDIUM DENSITY RESIDENTIAL (R-2) DISTRICT

18. 2.103.02, B, Permitted Uses. Subsection B lists “single family dwelling attached” as a permitted use, but does not require they comply with the objective architectural standards for dwellings in Section 2.316. Propose adding, at the end of Subsection B “..., subject to the provisions of Section 2.316, Architectural Standards for Dwellings.”
19. 2.103.02, C, Permitted Uses. Subsection C lists “Manufactured Homes on Individual Lots” as a permitted use and it includes a citation Section 2.305, but it doesn’t say what Section 2.305 covers. Propose adding, at the end of Subsection C, “Manufactured Homes on Individual Lots.
20. 2.103.02, D, Permitted Uses. Subsection D lists duplex as a permitted use, but does not require they comply with the objective architectural standards for dwellings in Section 2.316. Propose adding, at the end of Subsection D “..., subject to the provisions of Section 2.316, Architectural Standards for Dwellings.”
21. 2.103.02, K, Permitted Uses. Subsection K allows Accessory Structures or Uses as a permitted use, but it does not refer to Subsection 2.209.10 which contains the accessory structure standards. Propose adding “subject to the provisions of Subsection 2.209.10, Accessory Structures,” to clarify that accessory structures and uses must comply with the accessory structure standards in Subsection 2.209.10.
22. 2.103.02, L, Permitted Uses. Subsection L allows Mobile Home Parks as a permitted use, but does not also list Manufactured Home Park as a permitted use. The term Mobile Home is used to describe units manufactured prior to 1976 when the Federal manufactured home standards were revised to be consistent with site-built housing. The term Manufactured Home is used to describe units manufactured after the Federal standards were adopted in 1976. Propose adding “or manufactured home park” as a permitted use in the R-2 District to clarify that a Manufactured Home Park is also a permitted use in the R-2 District.
23. 2.103.02, P, Permitted Uses. Subsection P allows accessory dwelling units as a permitted use, but the phrase “...the provisions of... is not included. Propose a minor amendment to add the phrase to make it the same as the other standards that refer to complying with a particular Section.  
  
2.101.02, Permitted Uses. Propose adding Subsection L, “single room occupancy,” as a permitted use in the RA District to conform with HB 3395, Section 20 (2023 Legislature).
24. 2.103.03, Conditional Uses. The lead-in sentence includes a typo stating “RC,” but it should be “R-2.” Propose deleting “RC” and replacing it with “R-2.”
25. 2.103.04, A, 5, Dimensional Standards. Subsection 2.103.04, A, 5, lists “Mobile home park,” and that they must be on a property of at least 1 acre. Subsection A, 5, does not include



“manufactured home park.” Propose adding “manufactured home park” to clarify that “manufactured home park” must also be at least 1 acre in size.

2.103.04, A, 5, Dimensional Standards. Propose Subsection 2.103.04, A, be amended to include a minimum lot size for single room occupancies. HB 3395, Section 17 requires the number of SRO units be “...consistent with the density standards of a lot or parcel zoned to allow for the development of residential dwellings with five or more units.” The R-2 zone sets forth the minimum lot size for 5 or more apartment units at 13,000 square feet, i.e., 9,000 square feet for the first 3 units and an additional 2,000 square feet for each additional unit.

- 26. 2.103.04, B, Minimum Yard Setbacks. Subsection B, 1, a, establishes a 15 foot front yard setback and a 20 foot front yard setback for garages (to allow a vehicle to park in front of the garage door). Subsections B, 1, b, c and d, for rear yards, interior side yards and side yards adjacent to a street, respectively, are silent on the garage setback when the garage door faces a rear property line, an interior side property line or a side property line adjacent to a street. Propose adding a 20 foot setback to a garage that is accessed from a rear property line, an interior side property line or a side property line adjacent to a street.
- 27. 2.103.04, B, Minimum Yard Setbacks. Subsection B, 1, states “All principal and accessory structures shall maintain the following minimum yard setbacks:” and lists the setbacks in Subsubsections 1, a – d. The phrase “and accessory” means both the principal and accessory structures must comply with Subsubsections 1, a – d. Propose deleting “and accessory” to read “All principal structures...,” because Section 2.209.10 contains the setback standards for accessory structures. Because B, 1, with the proposed amendment, would refer only to principal structures, a new B, 2, is needed to address accessory structures – see following.
- 28. 2.103.04, B, Minimum Yard Setbacks. Consistent with the above proposed amendment, propose amending 2.103.04, B, to add a new 2.103.04, B, 2, which would refer to the setback standards for accessory structures. Because the accessory structure setback standards are set forth in Section 2.209.10, the new B, 2, would refer to Section 2.209.10. For example, “All accessory structures shall comply with Section 2.209.10, Accessory Structure Standards
- 29. 2.103.04, B, Minimum Yard Setback Requirements. Subsection B, 1, establishes yard setbacks for “All principal and accessory structures” which would include all residential uses. There are no setbacks tailored to multi-family housing (3 or more dwelling units per lot) which can be up to 30 feet in height (per Subsection C, 1). NOTE: These amendments propose changing the 30 height limit to 35 feet. The R-2 District residential setbacks are the same as the R-1 setbacks, except the R-1 rear setback is 15 feet and the R-2 rear setback is 10 feet.

The R-2 District allows various types of housing, including multi-family housing up to 30 feet in height.

The current R-2 setbacks are:

Front yard:	15 feet.
Garage:	20 feet.
Rear yard:	10 feet.
Garage:	20 feet.
Interior side yard:	5 feet.
Garage:	20 feet.

Side yard adjacent to a street:	15 feet.
Garage:	20 feet.

Note that Item #26, above, proposes the setbacks to garages be a minimum of 20 feet.

The B, 1, setbacks are appropriate for detached single family dwellings, duplexes and attached single family dwellings, but they are not appropriate for multi-family dwellings, especially when an R-2 property abuts an R-1, R-2 or R-3 property with a detached single family dwelling, duplex or an attached single family dwelling.

With these amendments, the R-1, R-2 and R-3 Districts will allow low density housing, i.e., detached single family dwellings, attached single family dwellings and duplexes. There will be situations in the R-2 District where a multi-family building is proposed on a property abutting a detached single family dwelling, attached single family dwelling or a duplex on an abutting property in the R-1, R-2 or RC Districts.

Greater front, side and rear yard setbacks are appropriate when a multi-family building is proposed on a property which abuts a property with a detached single family dwelling, attached single family dwelling or duplex in a R-1, R-2 or RC District because the apartment building(s) will be significantly greater in mass, scale and bulk.

Propose a new Subsection B, 3, adding the following for multi-family dwellings (3 or more units) which abut a property in the R-1, R-2 or RC Districts occupied by a single family dwelling, attached single family dwelling or duplex:

Front yard:	20 feet.
Rear yard:	20 feet.
Interior side yard:	20 feet.
Side yard adjacent to a street:	20 feet.

Propose adding a new Subsection B, 4, setting forth the minimum setbacks for multi-family dwellings (3 or more units) which do not abut a property in the R-1, R-2 or RC Districts occupied by a single family dwelling, attached single family dwelling or duplex.

30. 2.103.04, B, Minimum Yard Setback Requirements. Subsection B, 1, is the only section setting forth the minimum setbacks. It applies to principal and accessory structures, but Section 2.209.10, B, 3, establishes the setbacks for accessory structures. Propose adding a new Subsection B, 2, to indicate the setbacks for accessory structures are at Section 2.209.10, B.
31. 2.103.04, B, Minimum Yard Setback Requirements. Following #29 propose adding a new Subsection B, 3, to indicate the setbacks for primary and accessory structures for multi-family development on a property that abuts properties in the R-1, R-2 and RC Districts that are developed with a detached single family dwelling, an attached dwelling or a duplex.
32. 2.103.04, B, Minimum Yard Setback Requirements. Following #29 propose adding a new Subsection B, 4, to indicate the setbacks for primary and accessory structures for multi-family development on a property that does not abut properties in the R-1, R-2 and RC Districts that are developed with a detached single family dwelling, an attached dwelling or a duplex.
33. 2.103.04, C, 1, Maximum Height Standard. Propose changing the height limitation of 30 feet to 35 feet Also, for 2.103.04, C, 2 (maximum height for accessory structures), propose deleting the height standard here because the height standard is in Section 2.209.10, Accessory Structure Standards.



34. 2.103.06, House of Worship Uses. Subsection 2.103.06, G, addresses market-rate housing development on house of worship properties in residential districts. Subsection 2.103.06, H, addresses affordable housing on house of worship properties in residential districts. The LZDO, Section 2.103.06, implements ORS 227.500 which has been amended by the Legislature in 2017 and 2021. Propose deleting Subsections G and H to bring the LZDO into conformance with ORS 227.500 as set forth in the 2023 Edition of the Oregon Revised Statutes.

#### 2.104 RESIDENTIAL COMMERCIAL (RC) DISTRICT

35. 2.104.02, Permitted Uses. Subsection A, 2, lists “single family dwelling attached” as a permitted use, but does not require they comply with the clear and objective architectural standards for dwellings in Section 2.316. Propose adding, at the end of A, 2, “..., subject to the provisions of Section 2.316, Architectural Standards for Dwellings.”
36. 2.104.02, Permitted Uses. Subsection A, 3, lists “Manufactured Homes on Individual Lots” as a permitted use and it includes a citation to Section 2.305, but it doesn’t say what Section 2.305 covers. Propose adding, at the end of Subsection C, “Manufactured Homes on Individual Lots. It would read, “Manufactured homes on individual lots, subject to the provisions of Section 2.305, Manufactured Homes on Individual Lots.
37. 2.104.02, Permitted Uses. Subsection A, 4, lists duplex as a permitted use, but does not require they comply with the objective architectural standards for dwellings in Section 2.316. Propose adding to A, 4, “..., subject to the provisions of Section 2.316, Architectural Standards for Dwellings” at the end.
38. 2.104.02, Permitted Uses. Subsection A (residential and non-commercial uses) does not list Accessory Structures and Uses as a permitted use. Residential uses are allowed and it is common for them to have accessory structures such as detached garages, shops, storage buildings, etc. Propose a new Subsection A, 15, be added listing Accessory Structure and Uses as a permitted use subject to the provisions of Subsection 2.209.10, Accessory Structure Standards.
39. 2.104.02, Permitted Uses. Subsection A (residential and non-commercial uses). Propose adding single room occupancy as a permitted use at a new Subsection A, 16.
40. 2.104.03, E, Conditional Uses. Subsection E allows park and ride lots as a conditional use and it includes a colon followed by two prohibitions, i.e., the spaces cannot be used for the required parking for development on other properties and they cannot be used for vehicle storage. Propose a minor amendment to delete the colon and re-state the two prohibitions.
41. 2.104.04, B, Minimum Yard Setback Requirements. Subsection B, 1, establishes RC District yard setbacks for “Residential Uses” which includes all residential uses. The “Residential Uses” setbacks are the same as the R-2 setbacks. Subsection B, 1, a, establishes a 15 foot front yard setback and a 20 foot front yard setback for garages (to allow a vehicle to park in front of the garage door). Subsections B, 1, b, c and d, for rear yards (10 feet), interior side yards (5 feet) and side yards adjacent to a street (15 feet), respectively, are silent on the garage setback when the garage door faces a rear property line, an interior side property line or a side property line adjacent to a street. Propose adding a 20 foot setback to a garage that is accessed from a rear property line, an interior side property line or a side property line adjacent to a street.

42. 2.104.04, B, Minimum Yard Setback Requirements. Subsection B, 1, establishes yard setbacks for “Residential Uses” which includes all residential uses. There are no setbacks tailored to multi-family housing (3 or more dwelling units) which can be up to 30 feet in height (per Subsection C, 1). Note, below the 30 foot height limit is proposed to be changed to 35 feet. The RC District setbacks at 2.104.04, B, 1, a – d, are the same as the R-2 setbacks. They are (the addition of garage setbacks proposed in these amendments are included):

Front yards:	15 feet.
Garage:	20 feet.
Rear yards:	10 feet.
Garage:	20 feet.
Interior side yards:	5 feet.
Garage:	20 feet.
Side yards adjacent to a street:	15 feet.
Garage:	20 feet.

The B, 1, setbacks are appropriate for detached single family dwellings, attached single family dwellings and duplexes, but they are not appropriate for multi-family dwellings, especially when an RC property abuts an R-1, R-2 or R-3 property with a detached single family dwelling, attached single family dwelling or duplex.

With these amendments, the R-1, R-2 and R-3 Districts will allow low density housing, i.e., detached single family dwellings, attached single family dwellings and duplexes. There will be situations in the RC District where a multi-family building is proposed on a property abutting a detached single family dwelling, attached single family dwelling or a duplex on an abutting property in the R-1, R-2 or RC Districts.

Greater front, side and rear yard setbacks are appropriate when a multi-family building is proposed on a property which abuts a property with a detached single family dwelling, attached single family dwelling or duplex in a R-1, R-2 or RC District because the apartment building will be significantly greater in mass, scale and bulk.

Propose adding a new Subsection B, 2, a, setting forth the minimum setbacks for multi-family dwellings (3 or more units) which abut a property in the R-1, R-2 or RC Districts occupied by a single family dwelling, attached single family dwelling or duplex:

Front yard:	20 feet.
Rear yard:	20 feet.
Interior side yard:	20 feet.
Side yard adjacent to a street:	20 feet.

Propose adding a new Subsection B, 2, b, setting forth the minimum setbacks for multi-family dwellings (3 or more units) which do not abut a property in the R-1, R-2 or RC Districts occupied by a single family dwelling, attached single family dwelling or duplex.

43. 2.104.04, B, Minimum Yard Setback Requirements. Subsection B, 1, is the only section setting forth the minimum setbacks. It applies to principal and accessory structures, but Section 2.209.10, B, 3, establishes the setbacks for accessory structures. Propose adding a new Subsection B, 2, to indicate the setbacks for accessory structures are at Section 2.209.10, B.

44. 2.104.04, B, Minimum Yard Setback Requirements. Propose adding a new Subsection B, 3, a, to indicate the setbacks for primary and accessory structures for multi-family development on a property that abuts properties in the R-1, R-2 and RC Districts that are developed with a detached single family dwelling, an attached dwelling or a duplex.
45. 2.104.04, B, Minimum Yard Setback Requirements. Propose adding a new Subsection B, 3, b, to indicate the setbacks for primary and accessory structures for multi-family development on a property that does not abut properties in the R-1, R-2 and RC Districts that are developed with a detached single family dwelling, an attached dwelling or a duplex.
46. 2.104.04, B, Minimum Yard Setback Requirements. Subsection B includes four Subsections, B, 1 - 4. Following the above, propose renumbering 2, 3 and 4 to 4, 5 and 6.
47. 2.104.04, C, 1, Maximum Structure Height Standard. Propose changing the 30 foot height limitation to 35 feet.
48. Subsection C, 2, addresses the maximum height for accessory structures at 20 feet, but Section 2.209.10, B, 2, establishes the height maximum for accessory structures at 20 feet and adds that no accessory structure can be higher than the principal building. Propose deleting
49. 2.104.06, House of Worship Uses. Subsection 2.104.06, G, addresses market-rate housing development on house of worship properties in residential districts. Subsection 2.104.06, H, addresses affordable housing on house of worship properties in residential districts. The LZDO, Section 2.104.06, implements ORS 227.500 which has been amended by the Legislature in 2017 and 2021. Propose deleting Subsections G and H to bring the LZDO into conformance with ORS 227.500 as set forth in the 2023 Edition of the Oregon Revised Statutes.

## 2.105 COMMERCIAL CORE (C-1) DISTRICT

50. 2.105.02, Permitted Uses. Per HB 3395, Sec. 2, propose adding Subsection 2.105.02, Z, to allow affordable mixed use, commercial on ground floor with residential on the upper floor(s), subject to an affordable housing covenant as provided in ORS 456.270 to 456.295, making each unit affordable to a household with income less than or equal to 60 percent of the area median income as defined in ORS 456.270. The foregoing does not apply to lands where City staff determines:
  1. The development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete.
  2. The property contains a slope of 25 percent or greater.
  3. The property is within the Special Flood Hazard Area (100-year floodplain).
  4. The property is constrained by land use regulations based on the Statewide Planning Goals relating to:
    - a. Natural disasters and hazards, or
    - b. Natural resources, including air, water, land or natural areas, but not including open spaces.
  5. The property is vacant.
  6. The property was added to the urban growth boundary within the last 15 years.

NOTE: The preceding does not carry over to an amendment to the C-2 District because the C-2 District allows industrial uses as a conditional use permit.

### 2.303 MANUFACTURED HOMES

51. 2.303.02, Manufactured Homes, General Standards. Propose amending this section to comply with HB 4064 (2022 Legislature) (ORS 197.478). Essentially, except for the external thermal envelope standard, the standards that have applied in most local jurisdiction's zoning regulations for several decades only to manufactured homes can no longer be applied. For example, a requirement that the roof of a manufactured home be pitched, or that the home be a double-wide must be deleted because similar standards do not apply to site-built dwellings.

### 2.305 MANUFACTURED HOMES ON INDIVIDUAL LOTS

52. 2.305.02, Manufactured Homes on Individual Lots, General Standards. Propose amending this section to comply with HB 4064 (2022 Legislature) (ORS 197.478). As above for 2.303, essentially, except for the external thermal envelope standard, the standards that have applied in most local jurisdiction's zoning regulations for several decades only to manufactured homes can no longer be applied. For example, a requirement that the roof of a manufactured home be pitched, or that the home be a double-wide and on a perimeter foundation must be deleted because similar standards do not apply to site-built dwellings.

### 3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

53. 3.101.01, A, Type I Actions. Propose deleting 3.101.01, A, 1, which lists "property line adjustment" (PLA) with no discretion exercised as a Type I-A action and add PLA as a Type I-C to 3.101.01, C, Limited Land Use Actions. Propose renumbering 3.101.01, A, 2 (sign permits) and 3 (floodplain development permits) to be 1 and 2.
54. 3.101.01, B, Type I Actions. Propose deleting 3.101.01, B, 3, which lists "property line adjustment with discretion" as a Type I-B action and add it as a Type I-C to 3.101.01, C, Limited Land Use Actions. Propose renumbering 3.101.01, B, 4 – 7 to be 3 - 6.
55. 3.101.01, C, Type I Actions. Propose amending 3.101.01, C, which addresses Limited Land Use (LLU) actions and currently lists only applications for partitions and site development reviews, to also include applications for a partition or subdivision replat, an application for a property line adjustment and an application for an extension, alteration or expansion of a nonconforming use.
56. 3.101.01, C, Type I Actions. Immediately above, Section 3.101.01, C, is proposed to include property line adjustments (PLA) as a Limited Land Use (LLU) action. But PLA's can be applications which require no discretion to determine if the approval criteria are met or they can include applications where discretion is exercised to determine if the approval criteria are met or whether a condition of approval is needed and what the condition of approval would require. Residential development applications would not include subjective approval criteria because developments for residential uses, i.e., "needed housing," can be subjected only to clear and objective criteria.

Thus, Section 3.101.01, C, for LLUs is proposed to be divided into two subsections. One subsection (3.101.01, C, 1) for LLUs where no discretion is exercised (residential developments) to determine if the approval criteria are met, i.e., the approval criteria are clear and objective.

3.101.01, C, 1:

- a. Property line adjustment,
- b. Partition tentative plan,
- c. Subdivision tentative plan,
- d. Site development review
- e. Extension, alteration or expansion of a nonconforming use.

A second subsection (3.101.01, C, 2) is proposed for LLUs where discretion is exercised to determine if the approval criteria are met, i.e., the approval criteria include subjective standards. Non-residential development applications can be subjected to subjective approval criteria because developments for non-residential uses are not “needed housing.”

3.101.01, C, 2:

- a. Property line adjustment with discretion,
- b. Partition tentative plan with discretion,
- c. Subdivision tentative plan with discretion,
- d. Site development review with discretion,
- e. Extension, alteration or expansion of a nonconforming use with discretion.

57. 3.101.01, D, Type I-D Actions, addresses Expedited Land Divisions which are specifically for land divisions (partitions and subdivisions) where (1) the land is zoned for residential uses, (2) is within a UGB/City Limits, (3) is solely for the purposes of residential use, (4) would not approve dwellings or accessory buildings on land that is protected for natural features, i.e., open spaces, scenic and historic areas and natural resources, (5) meets density or affordability standards, and (6) meets all other land division standards, i.e., no adjustments or variances are requested.

Subsection 3.101.01, D, lists only partitions as a Type I-D action (City Administrator is the decision authority). Propose amending 3.101.01, D, to add Subsubsection 2 listing subdivisions as a Type I-D action. Based on the 2024 Legislature’s SB 1537 listing subdivisions as a Limited Land Use action, the above amendments to the LLU language establish the City Administrator as the decision authority for subdivisions.

Consistent with the above, the following proposed amendment to Section 3.101.02, B, (Type II actions where the Planning Commission is the current decision authority for subdivisions) will delete subdivisions as a Type II action because as of January 1, 2025, subdivisions will no longer be a Type II Planning Commission decision.

58. 3.101.02, B, Type II-B Actions, addresses LLUs which call for subdivisions to be decided by City staff (City Administrator) as a Type I-C action. Propose 3.101.02, B, be deleted.

### 3.109 NONCONFORMING USES

59. 3.109.03, Discontinuance of Use. Propose amending Section 3.109.03, B, by adding the language from SB 405, Section 2 (2021 Legislature) that created the new ORS 227.283. Where a city’s nonconforming use standards allow the resumption of a nonconforming use after its interruption or abandonment prior to the expiration of a time period (12-months in the

LZDO), the 12-month period may not count the time that a use interrupted or abandoned during the time that a federal, state or local emergency order limits or prohibits the use or the repair or replacement of the use.

In its entirety, ORS 227.283 states, “City land use regulations that allow the resumption of a nonconforming use after its interruption or abandonment may not consider a use interrupted or abandoned during the time that a federal, state or local emergency order limits or prohibits the use or the repair or replacement of the use.”

60. 3.109.03, Discontinuance of Use. The following proposed amendment is not required by any Bill, it is a matter of practicality in these times of greater development complexity. The LZDO’s current nonconforming use discontinuance period is 12-months for an interruption or abandonment. In many cases the resumption of a use within 12-months after an interruption is not possible due to several issues, including but not limited to settlement of an insurance claim, the availability of work crews, the availability of materials, obtaining financing and other factors beyond the control of the property owner. Propose changing the current 12-month period to 18-months for nonconforming uses that are interrupted.

Where a nonconforming use is abandoned, the proposed amendment does not apply to extend the 12-month period to 18-months.

### 3.201 GENERAL PROCEDURES

61. 3.201.03, A. Procedure For Type I-C Review, Limited Land Use Applications. For a decision involving an application for the development of a residential structure where the city has tentatively approved the application, propose amending 3.201.03, A, 3, to extend the 120-day period by 7-days to “assure the sufficiency of its final order.” See ORS 227.178(7)(b).

## III. PROPOSED LZDO AMENDMENTS – “MARK-UP” VERSION

The intent of this staff report is to include proposed code language amendments to bring the LZDO into compliance with the numerous housing related Bills that have been passed recently. As is the usual case for code language amendments, the language to be deleted is shown in [ ~~brackets and strikeout~~ ] and the language to be added is shown in ***bold italics***.

Once the bills were reviewed and the scope of the many changes and their complexity were recognized, it was clear there was not sufficient time to create and show in this staff report all the needed LZDO amendments. For example, several Bills include new terms with definitions or definitions of existing terms have been changed and some of them are not included in this staff report.

For some Bills, clarifications have been asked of the Oregon Department of Land Conservation and Development staff and some responses have not been yet been received.

### 1.200 DEFINITIONS

#### 1.200.02, Definitions.

~~[Child Care Facility: A facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, except those excluded under ORS 657A.250. this term~~



applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children (OAR 414-350-0010(12)). ]

**Child Day Care Center: A facility that is certified to care for 17 or more children, or a facility certified to care for less than 17 children that is not located in a residential dwelling.**

**Child Day Care Home: A facility located in a residential dwelling that is certified to care for no more than 16 children.**

Dwelling Unit: [ One or more rooms designed for occupancy by one family and not having more than one cooking facility. Includes all conventional and prefabricated housing which meets Uniform Building Code specifications and is constructed on a permanent foundation. ] **Except for a mobile home or a manufactured home, a single unit of one or more habitable rooms providing complete independent facilities for occupants, including permanent provisions for living, sleeping, eating, cooking and sanitation.**

Dwelling, Multi-family. A building containing three (3) or more dwelling units [ designed for occupancy by three (3) or more families living independently of each other ] **on one lot or parcel, or one lot or parcel containing more than two (2) dwelling units.**

Dwelling, Single-family attached (townhouse): [ A multi-family structure so designed that each individual dwelling unit is located upon a separate lot or parcel. ] **A dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual lot or parcel and shares at least one common wall with an adjacent dwelling unit.**

Dwelling, Single-family detached: A detached building containing one dwelling unit [ designed exclusively for occupancy by one (1) family ] on a single lot or parcel.

Dwelling-Two-Family (Duplex): [ A detached building containing two (2) dwelling units designed exclusively for occupancy by two (2) families living independently of each other. ] **Two attached dwelling units on one lot or parcel.**

H. **Manufactured Dwelling: A residential trailer, mobile home, prefabricated structure or manufactured home. A manufactured dwelling does not include any building or structure constructed to conform to the State of Oregon Structural Specialty Code, the Low-Rise Residential Dwelling Code adopted pursuant to ORS 455.020 (Purpose) or 455.610 (Low-Rise Residential Dwelling Code) or the Small Home Specialty Code adopted under Section 2, Chapter 401, Oregon Laws 2019.**

Manufactured [ home ] dwelling park: Any place where four or more manufactured [ homes ] **dwelling**s or prefabricated structures, as defined in ORS 455.010, that are relocatable and more than 8.5 feet wide, are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental, lease, or use of facilities or to offer space free in connection with securing the trade or patronage of such person. [ A person shall not construct a new manufactured home park or add lots to an existing manufactured home park without approval by the Department of Commerce. ] "Manufactured [ home ] **dwelling** park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one **mobile or** manufactured [ home ] **dwelling** per lot if the subdivision was approved pursuant to this Ordinance.

**Manufactured Dwelling Space:** *An area as defined by the manufactured dwelling park plan as leased or rented for the placement of a manufactured dwelling. The spaces are as defined on a City approved manufactured dwelling park plan.*

**Modular or Prefabricated Structure:** *A building or subassembly that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site and does not mean a manufactured dwelling or a small home as defined in Section 2, Chapter 401, Oregon Laws 2019.*

**Partition:** *An act of partitioning land or an area or tract of land partitioned.* [ ~~To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition" does not include:~~

~~A. Divisions of land resulting from lien foreclosures, divisions of land resulting from contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; or~~

~~B. Any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning ordinance; or~~

~~C. A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r). ]~~

**Residential Care Facility:** [ ~~A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. ] ***A residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to 15 individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential care facility.***~~

**Residential Care Home:** [ ~~A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. ] ***A residential treatment or training home, as defined in ORS 443.400a residential facility registered under ORS 443.480, or an adult foster home licensed under ORS 4343.705 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.***~~



**Single room occupancy: A residential development with no fewer than four attached units that are independently rented and lockable and provide living and sleeping space for the exclusive use of an occupant, but require that the occupant share sanitary or food preparation facilities with other units in the occupancy.**

**Skirting: Consistent with ORS 446.003 a weather resistant material used to enclose the space below a manufactured dwelling.**

2.101 RESIDENTIAL ACREAGE DISTRICT (RA)

2.101.02, Permitted Uses

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the RA District:

- A. Single-family dwelling unit, detached, **or duplex**, subject to **the provisions of** Section 2.316, Architectural Standards for Dwellings.
- B – E. No change.
- F. Child **day** care facility (Serving fewer than [~~16~~] **17** children).
- G – K. No change.
- L. *Single room occupancy with no more than 6 units.***

2.101.04 Dimensional Standards

The following minimum dimensional standards shall be required for all development in the RA District, except for modifications permitted under Section 2.402, General Exceptions.

A. Minimum Lot Area 5 acres

B. Minimum Yard Setbacks

1. All structures shall maintain the following minimum yard setbacks:

- |    |                                |         |
|----|--------------------------------|---------|
| a. | Front Yard                     | 15 feet |
|    | Garage setback                 | 20 feet |
| b. | Rear Yard                      | 15 feet |
| c. | Side Yard (interior)           | 5 feet  |
| d. | Side Yard (adjacent to street) | 15 feet |

C. Maximum Structure Height

1. Principal Structure 35 feet

[ ~~2. Accessory structure 35 feet ]~~

C

2.102 LOW DENSITY RESIDENTIAL DISTRICT (R-1)

2.102.02, Permitted Uses

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the R-1 District:

- A. Single-family dwelling unit, detached, **or duplex**, subject to **the provisions of** Section 2.316, Architectural Standards for Dwellings.
- B. Manufactured homes on individual lots, subject to the provisions of Section 2.305, **Manufactured Homes on Individual Lots.**
- C. Mobile home park **or manufactured home park**, subject to the provisions of Section 2.304, **Manufactured Home Parks.**
- D. Accessory structure or uses, **subject to the provisions of Subsection 2.209.10, Accessory Structures.**
- E – K. No change.
- L. Accessory dwelling unit, subject to **the provisions of** Section 2.312, Accessory Dwelling Units.
- M. Single room occupancy with no more than 6 units.**

2.102.03 Conditional Uses

The following uses may be permitted in the R-1 District when authorized pursuant to Section 3.103, **Conditional Use Permits:**

- A. [ Duplex ]

**The following B – G to be renumbered A – F.**

- B. Public facility or government structure **or use.**
- C. Bed and breakfast establishment.
- D. Cemetery.
- E. Golf Course.
- F. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 2.102.06, House of Worship Uses.
- G. Public and private schools K-12.

2.102.04 Dimensional Standards

The following minimum dimensional standards shall be required for all development in the R-1 District except for modifications permitted under Section 2.302, Planned Unit Developments, and Section 2.402, General Exceptions.

A. Minimum Lot Area

- 1. Single-family dwelling 7,500 square feet.
- 2. Duplex [ 40,000 ] **7,500** square feet.
- 3. Public utility structures: Lot area shall be adequate to contain all proposed structures within required yard setbacks.
- 4. Mobile home **and manufactured home** parks: 1 acre.
- 5. All other uses, **except single room occupancies**: 7,500 square feet.
- 6. Single room occupancy: 3,750 square feet per dwelling unit.**

B. Minimum Yard Setbacks

- 1. All **principal** structures shall maintain the following minimum yard setbacks:
  - a. Front Yard 15 feet.  
Garage setback 20 feet
  - b. Rear Yard 15 feet  
**Garage setback 20 feet**
  - c. Side Yard (interior) 5 feet  
**Garage setback 20 feet**
  - d. Side Yard (adjacent to street) 15 feet.  
**Garage setback 20 feet.**
- 2. **All accessory structures shall comply with Section 2.209.10, Accessory Structure Standards.**

C. Maximum Structure Height

- 1. Principal Structure: 30 feet.
- [ ~~2. Accessory Structure: 20 feet~~ ]

D & E. No change.

2.102.05 Development Standards

All development in the R-1 District shall comply with the applicable provisions of Section 2.400, General Provisions. In addition, the following standards shall apply:

- A. Off-street parking. Parking shall be as specified in Section 2.203.

B. Subdivisions and partitions. Land divisions shall be reviewed in accordance with the provisions of Section 2.208.

C. Lot Coverage. The following shall mean the maximum permitted lot coverage, maximum coverage of public and private parking areas or garages, and/or combined maximum lot and parking combined coverage required:

Maximum building coverage: 35%  
Maximum parking area coverage: 30%  
Combined maximum lot **coverage by buildings** and parking area [ ~~coverage~~ ]:  
60%

D – I. No change.

### 2.102.06 House of Worship Uses

House of worship uses include, but are not limited to:

A. Worship services;

B. Religious classes;

C. Weddings;

D. Funerals;

E. Meal programs;

F. Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education [ ; ] .

[ ~~G. Where a house of worship is in a residential district, the housing permitted outright or permitted conditionally in the residential district is allowed in accordance with the development standards of the residential district and is not required to comply with Subsection H, 1-4, below. ]~~

[ ~~H. Where a house of worship is in a residential district, in addition to, or in place of, the housing allowed in Subsection G, above, affordable housing or space for affordable housing in one or more buildings detached from the place of worship, is~~

~~1. At least 50 percent for the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;~~

~~2. The real property is in an area zoned for residential use that is located within the urban growth boundary; and~~

~~3. The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.~~

~~4. Housing and space for housing provided under subsection 7, a-c, of this section must provide a covenant appurtenant that restricts the owner and each successive~~

~~owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection 7, a-c, of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy. ]~~

## 2.103 MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)

### 2.103.02, Permitted Uses.

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the R-2 District:

- A. Single-family dwelling unit, detached, subject to ***the provisions of*** Section 2.316, Architectural Standards for Dwellings.
- B. Single family dwelling, attached, ***subject to the provisions of Section 2.316, Architectural Standards for Dwellings.***
- C. Manufactured homes on individual lots, subject to the provisions of Section 2.305, ***Manufactured Homes on Individual Lots.***
- D. Duplex, ***subject to the provisions of Section 2.316, Architectural Standards for Dwellings.***
- E. Multi-family housing, including apartments, townhouses ***of 3 or more units***, and condominiums, subject to the [ ~~procedures of Section 3.105~~ ] ***provisions of Section 3.105***, Site Development Review.
- F – J. No change.
- K. Accessory structures or uses, ***subject to the provisions of Subsection 2.209.10, Accessory Structure Standards, and Subsection 2.103.04, B, 3 or 4, Accessory Structures for Multi-family Development.***
- L. Mobile home park[ ~~s~~ ] ***or manufactured home park***, subject to the provisions of Section 2.304, ***Manufactured Home Parks.***
- M – O. No change.
- P. Accessory dwelling unit, subject to ***the provisions of*** Section 2.312, Accessory Dwelling Units.
- Q. ***Single room occupancy, subject to the provisions of Section 2.319, Single Room Occupancy Standards. (HB 3395, Sec. 16 - 19)***
- R. ***Planned Unit Development, subject to the provisions of Section 2.302, Planned Unit Development.***
- S. ***Single room occupancy with no more than 6 units .***

2.103.03 Conditional Uses

The following **uses** may be permitted in the [ ~~RC~~ ] **R-2** District when authorized pursuant to [ ~~7~~ ] Section 3.103, Conditional Use Permits:

- A. Government or public facility structures **or use**.
- B. Hospitals.
- C. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 2.103.06, House of Worship Uses.

[ ~~D. Planned unit development subject to the provisions of Section 2.302.~~ ]

[ ~~E~~ ] **D.** Public and private schools K-12.

2.103.04 Dimensional Standards

The following minimum dimensional standards shall be required for all development in the R-2 District, except for modifications permitted under Section 2.302, Planned Unit Developments, and Section 2.402, General Exceptions.

A. Minimum Lot Area

- 1. Single-family dwelling, detached: 5,000 square feet  
Single family dwelling, attached: 4,000 square feet
- 2. Duplex: [ ~~8,000~~ ] **5,000** square feet
- 3. Multi-family dwellings:
  - a. First three units: 9,000 square feet
  - b. Each additional unit[ ~~s~~ ]: 2,000 square feet
- 4. Public utility structures: Lot area shall be adequate to contain all proposed structures within the required yard setbacks.
- 5. Mobile home **and manufactured home** parks: 1 acre

**6. Single room occupancy:**

- a. First three units: 9,000 square feet**
- b. Each additional unit: 2,000 square feet**

B. Minimum Yard Setbacks

- 1. [ ~~All p~~ ] **Principal** [ ~~and accessory~~ ] **nonmulti-family** structures shall maintain the following minimum yard setbacks:
  - a. Front Yard 15 feet.

	Garage setback	20 feet
b.	Rear Yard <b>Garage setback</b>	10 feet <b>20 feet</b>
c.	Side Yard (interior) <b>Garage setback</b>	5 feet <b>20 feet</b>
d.	Side Yard (adjacent to street) <b>Garage setback</b>	15 feet. <b>20 feet</b>

2. ***Accessory structures for detached single family, attached single family dwellings (townhouse) and duplex development shall comply with Section 2.209.10, Accessory Structure Standards.***

3. ***Principal and accessory structures for multi-family development on a property which abuts a property in the R-1, R-2 or RC Districts occupied by a detached single family dwelling, attached single family dwelling or duplex shall maintain the following minimum yard setbacks:***

a.	<b><i>Front Yard</i></b> <b><i>Garage setback</i></b>	<b><i>20 feet</i></b> <b><i>20 feet</i></b>
b.	<b><i>Rear Yard</i></b> <b><i>Garage setback</i></b>	<b><i>20 feet</i></b> <b><i>20 feet</i></b>
c.	<b><i>Side Yard (interior)</i></b> <b><i>Garage setback</i></b>	<b><i>20 feet</i></b> <b><i>20 feet</i></b>
d.	<b><i>Side Yard (adjacent to street)</i></b> <b><i>Garage setback</i></b>	<b><i>15 feet.</i></b> <b><i>20 feet</i></b>

4. ***Principal and accessory structures for multi-family development on a property which does not abut a property in the R-1, R-2 or RC Districts occupied by a detached single family dwelling, attached single family dwelling or duplex shall maintain the following minimum yard setbacks:***

a.	<b><i>Front Yard</i></b> <b><i>Garage setback</i></b>	<b><i>15 feet.</i></b> <b><i>20 feet</i></b>
b.	<b><i>Rear Yard</i></b> <b><i>Garage setback</i></b>	<b><i>10 feet</i></b> <b><i>20 feet</i></b>
c.	<b><i>Side Yard (interior)</i></b> <b><i>Garage setback</i></b>	<b><i>15 feet</i></b> <b><i>20 feet</i></b>
d.	<b><i>Side Yard (adjacent to street)</i></b> <b><i>Garage setback</i></b>	<b><i>15 feet.</i></b> <b><i>20 feet</i></b>

C. Maximum Structure Height.

1. Principal Structure: [ 30 ] **35 feet**

[ ~~2. Accessory Structure:~~ \_\_\_\_\_ 20 feet ]

### 2.103.05 Development Standards

All development in the R-2 District shall comply with the applicable provisions of Section 2.400, General Provisions. In addition, the following standards shall apply:

- A. Off-street parking. Parking shall be as specified in Section 2.203.
- B. Subdivisions and partitions. Land divisions shall be reviewed in accordance with the provisions of Section 2.208.
- C. Lot Coverage. The following shall mean the maximum permitted lot coverage, maximum coverage of public and private parking areas or garages, and/or combined maximum lot and parking combined coverage required:

Maximum building coverage: 45%

Maximum parking area coverage: 30%

Combined maximum lot **coverage by buildings** and parking area [ ~~coverage~~ ]:  
75%

D – J. No change.

### 2.103.06 House of Worship Uses

House of worship uses include, but are not limited to:

- A. Worship services;
- B. Religious classes;
- C. Weddings;
- D. Funerals;
- E. Meal programs;
- F. Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education [ ; ] .

[ ~~G. Where a house of worship is in a residential district, the housing permitted outright or permitted conditionally in the residential district is allowed in accordance with the development standards of the residential district and is not required to comply with Subsection H, 1-4, below. ]~~

[ ~~H. Where a house of worship is in a residential district, in addition to, or in place of, the housing allowed in Subsection G, above, affordable housing or space for affordable housing in one or more buildings detached from the place of worship, is~~

- ~~1. At least 50 percent for the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;~~



~~2. The real property is in an area zoned for residential use that is located within the urban growth boundary; and~~

~~3. The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.~~

~~4. Housing and space for housing provided under subsection 7, a-c, of this section must provide a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection 7, a-c, of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located for a period of 60 years from the date of the certificate of occupancy. ]~~

## 2.104 RESIDENTIAL COMMERCIAL DISTRICT (RC)

### 2.104.02, Permitted Uses.

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the RC District:

- A. The following residential and non-commercial uses are permitted in the RC District:
1. Single family dwelling unit, detached, subject to **the provisions of** Section 2.316, Architectural Standards for Dwellings.
  2. Single family dwelling units, attached, **subject to the provisions of Section 2.316, Architectural Standards for Dwellings.**
  3. Manufactured homes on individual lots, subject to the provisions of Section 2.305
  4. Duplexes, **subject to the provisions of Section 2.316, Architectural Standards for Dwellings.**
  5. Multi-family housing, including apartments, townhouses **of 3 or more units**, and condominiums, subject to the **provisions of Section 3.105**, Site Development Review [ ~~procedures of Section 3.105~~ ].
  6. Bed and breakfast establishments, subject to the Site Development Review procedures of Section 3.105
  7. Residential care homes and facilities
  8. Child care facilities
  9. Home occupations, subject to the provisions of Section 2.306
  10. Parks and open space areas
  11. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 2.104.06, House of Worship Uses.

12. Partitioning, subject to the provisions in Section 3.106.
  13. Subdivisions, subject to the provisions in Section 3.107.
  14. Accessory dwelling unit[ s ], subject to the provisions of Section 2.312, **Accessory Dwelling Units**.
  15. **Accessory structure or use, subject to the provisions of 2.209.10, Accessory Structure Standards, and Subsection 2.104.04, B, 3, Accessory Structures for Multi-family Development.**
  16. **Single room occupancy with no more than 6 units.**
- B. The following commercial uses are permitted, subject to the provisions in Section 3.105, Site Development Review and the provisions in Subsection 2.104.02, C, **below**.
1. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, brokerages, loan companies, and investment companies; television and radio broadcast studios, and, miscellaneous offices such as detective agencies, drafting services or contractors offices.
  2. Professional offices and clinics including, but not limited to, medical, dental, engineering and legal services, but excluding veterinary clinics.
  3. Banks and other financial institutions without a drive-through window.
  4. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, artist supplies, hobby or photography store, florist, liquor store, hardware store, appliance or stereo equipment store, nursery or greenhouse, pet shop, sporting goods, automobile parts and accessories, department store, clothing, jewelry, gift, and other types retail activities.
  5. Restaurants, bakeries, coffee and snack shops and eating and drinking establishments, but excluding taverns, bars and similar establishments.
  6. Retail and service related stores such as TV and radio sales and service, bicycle shop, gunsmith, upholstery shop or other similar activities where a service department is customarily a secondary activity to the retail use.
  7. Service related businesses such as barber shops, beauty shops, tailors, advertising agencies, travel agencies, art or craft studios, self-serve laundry, dry cleaning (except bulk dry cleaning plants), self-store lockers including food storage lockers, parcel service, printing or photocopying, video rental, or other activities where the primary activity is the providing of a service to retail customers.
  8. Entertainment facilities such as movie theaters, theaters, bowling alleys, amusement centers including those featuring video games.
  9. Public automobile parking.
  10. Accessory structures and uses customarily provided for retail activities.
- C. Commercial uses permitted outright shall be subject to the following limitations:

1. The activity shall be conducted wholly within an enclosed structure.
2. The maximum lot size for any commercial use shall be one acre.
3. The lot shall abut a collector or arterial street if the commercial use exceeds 2,500 square feet in area.
4. Commercial uses shall not engage in the manufacturing, processing, assembly or compounding of products other than those clearly incidental to the business conducted on the premises.

2.104.03 Conditional Uses

The following uses may be permitted in the RC District when authorized pursuant to, Section 3.103, Conditional Use Permits. These uses shall also be subject to Site Development Review in Section 3.105:

- A. Government or public facility structures
- B. Cemeteries
- C. RV parks
- D. Commercial activities which do not comply with the provisions in Section 2.104.02,C.
- E. Park and ride lot [ :-] **provided the** parking spaces [ ~~cannot count~~ ] **are not counted** as required parking **for development on other properties** or [ -be- ] **are not** used for vehicle storage.
- F. Public and private schools K-12.

2.104.04 Dimensional Standards

The following minimum dimensional standards shall be required for all development in the RC District, except for modifications permitted under Section 2.402, General Exceptions.

A. Minimum Lot Area and Density Standards

- |    |                                   |   |
|----|-----------------------------------|---|
| 1. | Single-family dwelling, detached: | 5,000 square feet                             |
|    | Single-family dwelling, attached: | 4,000 square feet                             |
| 2. | Duplex:                           | [ <del>8,000</del> ] <b>5,000</b> square feet |
| 3. | Multi-family dwellings:           |   |
|    | a. First three units:             | 9,000 square feet                             |
|    | b. Each additional unit[ s ] :    | 2,000 square feet                             |

**4. Single room occupancy:**

- |                              |                          |
|------------------------------|--------------------------|
| <b>a. First three units:</b> | <b>9,000 square feet</b> |
|------------------------------|--------------------------|

**b. Each additional unit: 2,000 square feet**

[4-]5. Commercial Use: 5,000 square feet

[5-]6. Mixed commercial and residential: Shall comply with the minimum for residential development.

[6-]7. Public utility structures: Lot area shall be adequate to contain all proposed structures within the required yard setbacks.

B. Minimum Yard Setbacks [ Requirements ]

1. **Non-multi-family** [~~R~~] residential [~~U~~] uses:

a. Front Yard: 15 feet  
Garage setback: 20 feet

b. Rear Yard: 10 feet  
**Garage setback: 20 feet**

c. Side Yard (interior): 5 feet  
**Garage setback: 20 feet**

d. Side Yard (adjacent to street): 15 feet  
**Garage setback: 20 feet**

2. **Accessory structures for non-multi-family residential uses shall comply with Section 2.209.10, Accessory Structure Standards.**

3. **Multi-family housing:**

a. **Multi-family housing which abuts a detached single family dwelling, attached single family dwelling or duplex in the R-1, R-2 or RC Districts:**

i. **Front Yard: 20 feet**

ii. **Rear Yard: 20 feet**

iii. **Side Yard (interior): 20 feet**

iv. **Side Yard (adjacent to street): 20 feet**

b. **Multi-family housing which does not abut a detached single family dwelling, attached single family dwelling or duplex in the R-1, R-2 or RC Districts:**

i. **Front Yard: 15 feet**

ii. **Rear Yard: 10 feet**

iii. **Side Yard (interior): 15 feet**

iv. **Side Yard (adjacent to street): 15 feet**

[ 2 ] 4. Commercial Uses

a. Front Yard: None

- b. Rear Yard:
  - i. Abutting a non-residential district: None
  - ii. Abutting a residential district, excluding R[ - ]C: 10 feet
- c. Side Yard:
  - i. Abutting a non-residential district: None
  - ii. Abutting a residential district, excluding R[ - ]C: 10 feet

[ 3 ] 5. Mixed commercial and residential:

- a. Front Yard: 5 feet  
**Garage setback: 20 feet**
- b. Rear Yard:
  - i. Abutting a non-residential district: 5 feet
  - ii. Abutting a residential district, excluding R[ - ]C: 10 feet
  - iii. Garage setback: 20 feet**
- c. Side Yard:
  - i. Abutting a non-residential district: 5 feet
  - ii. Abutting a residential district, excluding R[ - ]C: 10 feet
  - iii. Garage setback: 20 feet**

[ 4 ] 6. Public

- a. Front Yard: 15 feet  
Garage setback: 20 feet
- b. Rear Yard: 10 feet
- c. Side Yard (interior): 5 feet
- d. Side Yard (adjacent to street): 15 feet

C. Maximum Structure Height

- 1. Principal Structure: [-30-] **35 feet**

~~[ 2. Accessory Structure 20 feet. ]~~

2.105 COMMERCIAL – CORE DISTRICT (C - 1)

2.105.02, Permitted Uses.

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the C-1 District, subject to the provisions in Section 3.105, Site Development Review:

- A. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, brokerages, loan companies, and investment companies; television and radio broadcast studios (excluding broadcast towers and dishes), and, miscellaneous offices such as detective agencies, drafting services or contractors offices.
- B. Professional offices and clinics including, but not limited to, medical, dental, veterinarian clinics, engineering and legal services.
- C. Banks and other financial institutions without a drive-through window.
- D. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, artist supplies, hobby or photography store, florist, liquor store, hardware store, appliance or stereo equipment store, nursery or greenhouse, pet shop, sporting goods, automobile parts and accessories, department store, clothing, jewelry, gift, and other types retail activities.
- E. Restaurants, bakeries, taverns, snack shops and other types of eating and drinking establishments, including entertainment facilities accessory to the establishment.
- F. Retail and service related stores such as TV and radio sales and service, bicycle shop, gunsmith, equipment rental, upholstery shop or other similar activities where a service department is customarily a secondary activity to the retail use.
- G. Service related businesses such as barber shops, beauty shops, tailors, advertising agencies, travel agencies, art or craft studios, self-serve laundry, dry cleaning (except bulk dry cleaning plants), self-store lockers including food storage lockers, parcel service, printing or photocopying, equipment rental, video rental, or other activities where the primary activity is the providing of a service to retail customers.
- H. Entertainment facilities such as movie theaters, theaters, bowling alleys, amusement centers including those featuring video games.
- I. Public automobile parking.
- J. Churches.
- K. Public and semi-public utility facilities, distribution plants and service yards; excluding radio or television transmission towers; ambulance service.
- L. Second or upper story apartments.
- M. Accessory structures and uses customarily provided for retail activities.
- N. Residential care homes and facilities.
- O. Day care facilities.
- P. Partitioning, subject to the provisions in Section 3.106.
- Q. Subdivisions, subject to the provisions in Section 3.107.

- R. Non-profit member organizations, such as business associations, labor unions, political organizations or fraternal lodges.
- S. Park and ride lot: parking spaces cannot count as required parking or be used for vehicle storage.
- T. Small scale wineries, distilleries, or breweries subject to the provisions in Section 2.315.
- U. Hotels.
- V. Public parks and recreation and open space areas.
- W. Fitness Center.
- X. Trade and professional schools for office professions and personal services.
- Y. Medical and recreational marijuana retail sales subject to the following standards.

[[[ NOTE: 1 – 11 are not shown as they do not relate to the proposed amendments. ]]]

- Z. ***Mixed use structures with ground floor commercial and upper floor residential subject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making the property affordable to moderate income households, as defined in ORS 456.270. Section 2.105.02, Z does not apply to lands where the City determines one or more of the following:***
  - 1. ***The proposed development on the property cannot be adequately served by water, sewer, storm water drainage or streets, or will not be adequately served at the time that development on the lot is complete, or***
  - 2. ***The property contains a slope of 25 percent or greater, or.***
  - 3. ***The property is within the Special Flood Hazard Area (100-year floodplain).***
  - 4. ***The property is constrained by land use regulations based on the Statewide Planning Goals relating to:***
    - a. ***Natural disasters and hazards, or***
    - b. ***Natural resources, including air, water, land or natural areas, but not including open spaces.***
  - 5. ***The property is vacant.***
  - 6. ***The property was added to the urban growth boundary within the 15 year period prior to January 1,2025.***

2.300 SUPPLEMENTAL STANDARDS FOR SPECIAL USES

2.303 MANUFACTURED HOMES **AND PREFABRICATED HOMES**



2.303.01      Scope

The following standards are applicable to all manufactured **and prefabricated** homes sited in the City of Lafayette.

2.303.02      General Standards

A. All manufactured homes shall be subject to the following standards:

1. Type of Manufactured Home Permitted. Only those manufactured homes [ ~~used as permanent residences, manufactured after June 15, 1976, which exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards shall be permitted~~ ] **shall be certified to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the Low-Rise Residential Dwelling Code as defined in ORS 55.010.** .
2. Manufactured homes shall only be sited in an approved manufactured home park or manufactured home subdivision or on an individual lot in accordance with Sections 2.304, Manufactured Home Parks, and 2.305, Manufactured Homes on Individual Lots.
- [ ~~3. — Manufactured homes shall be placed upon a foundation or footings according to the requirements of state statutes and regulations. Plans and specifications for the foundation or footing design shall be submitted to the City and a building permit obtained. ]~~
4. Manufactured skirting shall be installed around the perimeter of manufactured home units, except where a unit is placed on a permanent foundation.
- [ ~~5. — Any extension of or attachment to the manufactured home which is not part of the original factory manufactured home and which is intended for use either as part of the dwelling unit or for storage purposes shall not occur unless indicated as a part of the application and is part of the approval. This application shall include plans for review and approval to insure the extension or attachment proposed is compatible and of similar design and character to the existing manufactured home. A City building permit shall be obtained for such extensions or additions to manufactured homes if so required by the appropriate state statutes and regulations. ]~~
6. The applicant must obtain a placement permit **or building permits** for the manufactured **or prefabricated** home from the City.
7. **A manufactured dwelling shall not be installed on a property in a residential zone abutting a property with a structure listed on the Lafayette or State of Oregon List of Historic Landmarks, or the National Register of Historic Places.**
8. **Manufactured and prefabricated dwellings shall comply with applicable standards for single-family dwellings.**

2.305 MANUFACTURED HOMES ON INDIVIDUAL LOTS

## 2.305.01      Scope

The provisions of this Section are applicable to all manufactured homes sited on individual lots and parcels in the City of Lafayette. Manufactured homes sited in approved mobile/manufactured home parks or manufactured home subdivisions are not affected by the provisions of this Section.

## 2.305.02      General Standards

Manufactured homes are permitted on individual lots in all residential districts, in accordance with the following general standards, and the placement permit and design compatibility standards set forth in Subsections 2.305.03. and 2.305.04. The minimum lot area, setback, and height standards of the subject district shall also apply to manufactured homes sited on individual lots.

- A.     ~~[ Size. The manufactured home shall be multi-sectional and have at least 1,000 square feet of gross floor area. ]~~
- B.     Performance Standards. The exterior thermal envelope must ~~[ meet the standards specified by state law for single family dwellings, as defined in ORS 455.010 ]~~ **shall be certified to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the Low-Rise Residential Dwelling Code as defined in ORS 55.010. .**
- C.     Removal of Towing Equipment. All towing hitches, wheels, running lights, and other towing related equipment shall be removed within thirty (30) days after installation of the manufactured home.
- D.     ~~[ Foundations. The manufactured home shall be placed on an excavated and back filled foundation with no more than 12 inches of inclosing material exposed above grade. Where the building site has a sloped grade, no more than 12 inches of the inclosing material shall be exposed on the uphill side of the home. If the home is placed on a basement, the twelve (12) inch limitation shall not apply. Furthermore, the twelve (12) inch limitation shall not apply if the requirements of the Flood Hazard District mandate that the home be elevated more than twelve (12) inches above grade. The foundation shall meet building code and Flood Hazard Area (if applicable) standards. The base of the manufactured home shall be enclosed continuously at the perimeter with either concrete, concrete block, brick, stone, or a combination thereof. ]~~
- E.     ~~[ Design Compatibility. The siting of the manufactured home on an individual lot shall be reviewed by the City Administrator or his designate for design compatibility. The criteria for design compatibility shall be based upon a review of the following design elements:~~
  - 1.     ~~Roofing. The manufactured home must have a composition asphalt, fiberglass, shake, or tile roof with a nominal pitch of three (3) feet in height for each twelve (12) feet in width.~~
  - 2.     ~~Exterior Siding. The exterior siding of the manufactured home must have the same appearance as materials commonly used on residential dwellings.~~

3. ~~Garage/Carport. A garage or carport of like material and color of the manufactured home is required. If a carport is used, than a minimum 50 square foot storage area shall be provided. The carport or garage shall be at least 240 square feet in size and shall meet building code requirements. ]~~

F. ~~[ Utilities. The manufactured home shall be provided with storm drainage, sanitary sewer, electric, telephone, and potable water utility services with easements dedicated where necessary to provide such services. All such utilities shall be located underground unless waived by the City Building Official where underground service would require an exception to local prevalent conditions. Manufactured homes shall not be used for living purposes unless connected to local water, sewer, and electrical systems. ]~~

### 3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

#### 3.101.01 Type I Action

Type I actions are reviewed and decided by the City staff. They are divided into four categories:

A. Type I-A actions are reviewed and decided by City staff based on objective standards that allow for no interpretation or the exercise of policy or legal judgment. Conditions may be placed on the decision provided they do not require an interpretation or the exercise of policy or legal judgment. Notice of the decision is provided consistent with Section 3.201.01. There is no appeal. The following are Type I-A actions:

- ~~[ 1. Property Line Adjustment ]~~
- [ 2 ] 1. Sign Permit
- [ 3 ] 2. Floodplain Development Permit

B. Type I-B actions are reviewed and decided by City staff based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Conditions may be placed on the decision. Notice of the decision is provided consistent with Section 3.201.02. Appeal is to the Planning Commission. The following are Type I-B actions:

- 1. Minor Variance.
- 2. Home Occupation.
- 3. Property Line Adjustment with discretion.
- 4. Sign Permit with discretion.
- 5. Floodplain Development Permit with discretion.
- 6. Similar Use/Ordinance Interpretation as part of a Type I-B application.
- 7. Similar Use/Ordinance Interpretation not part of an application.

C. Type I-C actions are Limited Land Use actions reviewed and decided by City staff based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Conditions may be placed on the decision. Notice of the opportunity to comment is provided consistent with Section 3.201.03. Notice of the opportunity to appeal is provided

consistent with Section 3.201.03. Appeal is to the Planning Commission. The following are Type I-C actions:

1. Partition **and Partition Replat.**
2. **Subdivision and Subdivision Replat.**
3. **Site Development Review.**
4. Property Line Adjustment.
5. **Extension, Alteration or Expansion of a Nonconforming Use.**

- D. Type I-D actions are Expedited Land Division actions reviewed and decided by City staff based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Notice of the opportunity to comment is provided consistent with 3.201.04. Conditions may be placed on the decision. Notice of the opportunity to appeal is provided consistent with Section 3.201.04. Appeal is to the Referee. The following is a Type I-D action:
1. Partition.

### 3.109 NONCONFORMING USES

#### 3.109.03 Discontinuation of Use

If a non-conforming use is discontinued for a period of more than [ ~~twelve (12)~~ ] **18** consecutive months, the use shall not be resumed unless the resumed use conforms with the requirements of the **Lafayette Zoning and Development Ordinance** [ ~~and other regulations applicable~~ ] at the time of the proposed resumption. **The 18 consecutive month period shall not include the time that a non-conforming use is interrupted or abandoned during the time that a federal, state or local emergency order limits or prohibits the use or the repair or replacement of the use.**

### 3.201 GENERAL PROCEDURES

#### 3.201.03 Procedure For Type I-C Review, Limited Land Use Applications.

Type I-C applications shall be reviewed and decided by the City Administrator or designee.

- A. Upon receipt of an application for a Type I-C action, the City staff shall review the application for completeness.
1. Not shown.
  2. Not shown.
  3. The timing requirements established in this Section are intended to allow a final decision, including resolution of any local appeals, within one hundred twenty (120) days of receipt of a complete application. **For a decision involving an application for the development of a residential structure where the city has tentatively approved the application, in addition to the 120-day period, an additional 7-day period is allowed to assure the sufficiency of its final order.** If for any reason it appears that such final action may not be completed within the 120 day period, or 127-day period, the procedures in Subsections 3, a – c, below, shall be followed regardless of other processes set forth elsewhere in this Ordinance. The 120 day period, **or 127-day period**, may be extended by the City for a specified period of time at the written request of the applicant, but the total time of all extensions may not exceed 245 days.

B – E. Not shown.

#### IV. HB 1537 (2024 Legislature)

HB 1537, Sections 38 to 41 address “adjustments” for residential development. As above, the Department of Land Conservation and Development legislative summary describes Sections 38 to 41 as follows:

*Requires local governments to allow land use adjustments, [referred to as Minor and Major Variances in the LZDO] and the extension, alterations and expansions of a nonconforming use administrative-level decision.*

Section 43 states the “adjustment” process sunsets on January 2, 2032. Section 38(3)(b) states that in implementing this subsection, a local government may:

*(b) Directly apply the process set forth in this subsection.*

To break the adjustment process down and convert the Legislative Bill language into local zoning code language is time consuming.

Based on Section 43 where the adjustment provisions sunset and Section 38(3)(b) where a local government can directly apply the process, it is recommended the LZDO not be amended to include the adjustment process and instead apply the process directly as set forth in Section 38 when an adjustment application is submitted to the City.

Based on the above, no new language is proposed to be added to the LZDO. The adjustment process will be applied directly as set forth in Section 38 when an adjustment application is submitted to the City.

#### V. REVIEWING WHERE THE COMMISSION LEFT OFF IN 2022

On March 17, 2022 the Planning Commission discussed the ADU standards and the single family dwelling architectural standards.

The PC reached consensus on some changes to the ADU standards and single family dwelling architectural standards.

To pick-up where the Commission left off in 2022, at the May 16, 2024 Commission work session, as part of this LA 2024-01 LZDO amendment process, the Commission’s 2022 work was discussed.

Chair Kerr explained that in 2022 the Commission discussed the issues thoroughly and the result was consensus as to the amendments. The Commission agreed they need not re-hash the 2022 work of the Commission and reached consensus to include the 2022 proposed changes in LA 2024-01.

As is sometimes the case, when Code language is reviewed, the review migrates to other sections of the Code and on March 17, 2022, in addition to the ADU language, the Commission recommended additional single family dwelling architectural standards be added to the existing list.

On March 21, 2022, the Commission’s discussion included only a couple of changes and reordering the list of ADU standards to a more logical order. The following lists the ADU standards with proposed amendments.

As usual the language to be deleted is in [ ~~brackets and strikethrough~~ ] and language to be added is in ***bold italics***.

## 2.312 ACCESSORY DWELLING UNITS (ADUs)

### 2.312.02 ADU Standards

Where allowed, ADUs shall conform to the following standards:

- A. An ADU may be detached from the primary dwelling, an addition to the primary dwelling or the conversion of a portion of the primary dwelling, but an attached or detached garage **or carport** may not be converted to an ADU.
- B. Number of Units. A maximum of one (1) ADU is allowed per detached single family dwelling on a legal lot of record. NO CHANGE.
- C. Floor Area. An ADU shall not exceed 800 square feet of gross floor area, or 40 percent of the primary dwelling's gross floor area, whichever is smaller. The floor area of a garage attached to the primary dwelling shall not be included in the calculation of the maximum floor area. An ADU's minimum floor area shall comply with the requirements of the Oregon Building Code Division. NO CHANGE.
- D. Building Construction. An ADU shall comply with applicable Oregon Building Code requirements. NO CHANGE.
- E. Building Height. A detached ADU shall not exceed the height of the primary dwelling. NO CHANGE.
- F. Parking. Off-street parking is not required for an ADU. Where the developer chooses to provide off-street parking for an ADU, the ADU parking space(s) is not required to be in a carport or garage, but the driveway and parking space surface shall be paved or concrete. The ADU parking space shall be accessed via an existing driveway. Where no existing driveway serves the property, a new driveway shall be installed in accordance with the Public Works Design Standards. NO PARKING REQUIRED.
- G. An[ y ] ADU shall comply with the development standards of the underlying zoning district. MINOR CHANGE.
- H. An ADU shall not be a mobile home, a manufactured home or a storage container. A modular dwelling is permitted. NO CHANGE.
- I. Existing legal non-conforming dwellings may be converted to an ADU. Where the conversion expands the dwelling, the expansion shall comply with the requirements of the residential zoning districts. NO CHANGE.
- J. The ADU front door shall not be on a building elevation facing a public or private street. NO CHANGE.
- K. An ADU shall not be located in a front yard or a side yard adjacent to a street. NO CHANGE.
- L. A detached ADU shall be separated from the primary dwelling at least 6 feet. NO CHANGE.
- M. Architectural Standards. An ADU shall **comply with the following and Section 2.316, Architectural Standards for Dwellings.**

1. Provide a pitched roof at least “3 in 12” pitch;
- ~~2. Provide eaves extending from the wall at least 6 inches;~~
- 3.2. Be recessed back at least 1 foot behind the building elevation of the primary dwelling facing a public or private street; ~~and .~~
4. ~~Provide at least 3 of the following design elements in the elevation facing a public or private street, except a side yard or a rear yard adjacent to a public or private street:~~
  - ~~a. Dormer window(s) or gable window(s) at least 2 feet by 2 feet;~~
  - ~~b. Cupola(s);~~
  - ~~c. Bay or bow window(s);~~
  - ~~d. Exterior shutters on each window;~~
  - ~~e. Covered or uncovered porch at least 25 square feet in area;~~
  - ~~f. At least 2 pillars or posts associated with a covered porch.~~
- ~~5. Each of 4, a – f, counts as one design element. For example, 2 dormers count as one element and 2 shutters on a window count as one element.~~

The proposed order of the ADU standards follows. The first 3 (A, H, I) set forth what an ADU can be, i.e., detached, etc., and then what it cannot be, i.e., a manufactured home, and then that it can be the conversion of a portion of a nonconforming dwelling. The existing alphabetized standards would be re-lettered as shown below.

The next item (K) states where ADUs cannot be located, i.e., in a front yard or side yard adjacent to a street.

Then the next several items (B, C, F, L) relate to dimensional standards, e.g., number of units, floor area, building height, and separation from the primary dwelling if the ADU is detached.

Then, the next item (J) regarding the front door seems to fit as the next item.

Then the next two items are more general, i.e., comply with the underlying zone (G), and comply with the building code (D).

The last 2 regarding parking and architectural standards are listed in no particular order, other than they need to be included and if M is currently the last item, then it can continue to be the last item.

The Commission agreed on an order and the old letters, A – M, will be reassigned as follows.

- A. An ADU may be detached from the primary dwelling, an addition to the primary dwelling or the conversion of a portion of the primary dwelling, but an attached or detached garage **or carport** may not be converted to an ADU.
- [H]B. An ADU shall not be a mobile home, a manufactured home or a storage container. A modular dwelling is permitted.
- [I]C. Existing legal non-conforming dwellings may be converted to an ADU. Where the conversion expands the dwelling, the expansion shall comply with the requirements of the residential zoning districts.



- [ ~~K~~ ]D. An ADU shall not be located in a front yard or a side yard adjacent to a street.
- [ ~~B~~ ]E. Number of Units. A maximum of one (1) ADU is allowed per detached single family dwelling on a legal lot of record.
- [ ~~C~~ ]F. Floor Area. An ADU shall not exceed 800 square feet of gross floor area, or 40 percent of the primary dwelling's gross floor area, whichever is smaller. The floor area of a garage attached to the primary dwelling shall not be included in the calculation of the maximum floor area. An ADU's minimum floor area shall comply with the requirements of the Oregon Building Code Division.
- [ ~~E~~ ]G. Building Height. A detached ADU shall not exceed the height of the primary dwelling.
- [ ~~L~~ ]H. A detached ADU shall be separated from the primary dwelling at least 6 feet.
- [ ~~J~~ ]I. The ADU front door shall not be on a building elevation facing a public or private street.
- [ ~~G~~ ]J. An ADU shall comply with the development standards of the underlying zoning district.
- [ ~~D~~ ]K. Building Construction. An ADU shall comply with applicable Oregon Building Code requirements.
- [ ~~F~~ ]L. Parking. Off-street parking is not required for an ADU. Where the developer chooses to provide off-street parking for an ADU, the ADU parking space(s) is not required to be in a carport or garage, but the driveway and parking space surface shall be paved or concrete. The ADU parking space shall be accessed via an existing driveway. Where no existing driveway serves the property, a new driveway shall be installed in accordance with the Public Works Design Standards.
- M. Architectural Standards. An ADU shall ~~comply with the following and Section 2.316, Architectural Standards for Dwellings.~~
  - 1. Provide a pitched roof at least "3 in 12" pitch;
  - [ ~~2~~ ] ~~Provide eaves extending from the wall at least 6 inches;~~
  - [ ~~3~~ ]2. Be recessed back at least 1 foot behind the building elevation of the primary dwelling facing a public or private street; ~~and .~~

The following is the information regarding the Planning Commission's discussion regarding the single family dwelling architectural standards in Section 2.316.

The following are the LZDO single family dwelling architectural standards. On March 17 the discussion of the ADU standards included a discussion of the single family dwelling architectural standards in 2.316.

The Commission reached consensus on adding additional single family design standards from which developers could choose from and they are shown in ***bold italics***.

NOTE: As stated at the March 17 meeting, only 3 architectural features are required out of the 11 existing, or the 15 proposed features. Section 2.316 does not require that any individual feature be constructed, rather it allows the developer to select which 3 will be constructed. And, of course, a developer is not limited to only 3, they can include more if they want to.

### **2.316.03 Standards**

Detached single family dwellings shall provide at least 3 of the following design elements in the elevation which faces a public or private street, except a side yard or a rear yard adjacent to a public or private street:

- A. Eaves extending from the wall at least 6 inches;
- B. Dormer window(s) or gable window(s) at least 2 feet by 2 feet;
- C. Cupola(s);
- D. Bay or bow window(s);
- E. Exterior shutters on window(s);
- F. Recessed entry(s) at least 1 foot;
- G. Front porch at least 100 square feet;
- H. Covered front porch entry;
- I. At least 2 pillars or posts **or knee braces or rod suspended roof** associated with a covered front porch entry;
- J. Off-set(s) of at least 16 inches on the dwelling's **front elevation** wall;
- K. Off-set(s) of at least 16 inches on the dwelling's **front elevation** roof;
- L. **Window(s) not less than 12 square feet facing the street or access easement when access is via an easement;**
- M. **A variation of no less than two building materials on the front elevation, the least of which shall be a minimum of 10 percent of the front elevation;**
- N. **Windows in a garage door facing the street or access easement when access is via an easement;**
- O. **Projections including, but not limited to pillars, posts, stonework, brickwork, over or at each side of the garage door(s). Projections shall be a minimum of 8 inches in depth.**

[ L ]P. Each of A- [ K ]O counts as one design element. For example, 2 dormer windows counts as one **element** and 2 shutters on each of 3 windows counts as one **element**.

## VI. STAFF RECOMMENDATION

Staff recommends the Commission review the staff report and be prepared to discuss the proposed amendments.

As is always the case, if you have questions prior to the December 19, 2024 Planning Commission work session, please contact me at 503 540-1619 or [jjacks@mwvcog.org](mailto:jjacks@mwvcog.org).

# City of Lafayette

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TO: LAFAYETTE PLANNING COMMISSION

FROM: JIM JACKS, CITY PLANNER

SUBJ: WORK SESSION: LEGISLATIVE AMENDMENT 2024-02 TO AMEND THE LZDO TO BRING THE FLOODPLAIN OVERLAY DISTRICT INTO COMPLIANCE WITH THE 2016 BIOLOGICAL OPINION REGARDING DEVELOPMENT IN THE 100-YEAR FLOODPLAIN

DATE: DECEMBER 19, 2024

## I. BACKGROUND

In accordance with the Endangered Species Act federal agencies are to “consult” with the National Oceanic and Atmospheric Administration (the National Marine Fisheries Service - NMFS) regarding the agency’s programs and their possible effect on endangered species. In 2009 a Federal judge determined the Federal Emergency Management Agency (FEMA) had not yet “consulted” with NMFS regarding the effect of the National Flood Insurance Program on listed endangered species in Oregon. In 2016 NMFS issued a Biological Opinion concluding the National Flood Insurance Program, administered by FEMA, which allows development in the 100 year floodplain, results in harm to 11 listed endangered salmonid species and the southern resident killer whales.

The consultation process has taken longer than anticipated and in July FEMA notified the 233 cities and 31 counties in Oregon that a pre-implementation program had been implemented where the cities and counties must choose one, or a combination of 3 options, to adopt and implement until the final standards will be published in the Federal Register in 2027. At that time the cities and counties can adopt the final standards that will result in better protection for the listed endangered species when development occurs in the 100-year floodplain,

The area affected by the Model Ordinance’s standards apply only within the 100-year floodplain area, not any area outside the 100-year floodplain area. With the narrow floodplain areas along the creeks and the river due to steep sides, only small areas of 17 properties are affected.

## II. MODEL ORDINANCE OPTION SELECTED

After discussing the three options on October 10, 2024 the City Council discussed the options again on November 14, 2024 the Council voted to select the Model Ordinance option. The other options were adopting a prohibition on development in the 100-year floodplain area and adopting a permit-by-permit system for each development.

## III. EXISTING STANDARDS

Since the City voluntarily entered into the National Flood Insurance Program (NFIP) several decades ago, development in the 100-year floodplain area has been reviewed to ensure it complies with the

NFIP standards for development. For example, the main floor of a building must be at least 1.0 foot higher than the level of the flood waters during a 100-year flooding event.

The 100-year floodplain areas in Lafayette are along the north bank of the Yamhill River, and along the banks Henry Creek on the eastern boundary of the city, Martin Creek in south central Lafayette and Millican Creek on the western boundary of the city. They are characterized by being deeply incised into the overall level of the topography, thus the floodplain does not generally extend far beyond the creeks and river. The city-owned Public Work Department property on the east side of Madison Street includes land running east along the north bank of the Yamhill River. The eastern portion is low where the city's sewage lagoons are located and they are in the 100-year floodplain.

Another smaller area is on Mineral Springs Road where a rectangular property extends from the main portion of the city to the road. It is relatively flat, thus the floodplain extends westerly toward the road from Millican Creek.

Due to the steep banks along the creeks and the river, the floodplains are narrow and affect only 17 properties. Other than the City's sewer lagoon area and the Mineral Springs Road area the remaining 15 properties are only marginally affected by the 100-year floodplain.

Since 2008 the city planner is not aware of any development in the 100-year floodplain, thus no Floodplain Development Permits have been issued. It is not anticipated that significant development will occur in the 100-year floodplain in the future because so few properties are affected and the areas that are affected are small and generally are steeply sloped.

#### IV. MODEL ORDINANCE OPTION

Attached to this staff report is the FEMA Region 10 Model Ordinance. It is based on the Oregon Department of Land Conservation and Development's model ordinance that is updated every approximately 10 years. The last update was in 2020, thus Region 10's Model Ordinance is based on the recently updated DLCD document.

Because there has been no known development in the 100-year floodplain for many years, maintaining consistency with the DLCD updates was not a high priority for the City. Thus, the current Floodplain Overlay District (FPO) in the Lafayette Zoning and Development Ordinance is not up to date with the DLCD 2020 document. Amending the FPO to be consistent with Region 10's Model Ordinance also includes updating the FPO to be consistent with the 2020 DLCD document.

Achieving consistency with the DLCD and the Region 10 documents means many amendments are needed – so many that it is more efficient to repeal the existing FPO and replace it with Region 10's Model Ordinance. The attached Model Ordinance includes some explanatory material at the beginning.

Based on the 2016 Biological Opinion the Model Ordinance includes a "no net loss" standard for 3 floodplain functions, i.e., capacity to accommodate floodwaters, water quality and vegetation. To achieve the "no net loss" standard a riparian buffer zone (RBZ) of up to 170 feet and a mitigation ratio table to match the proposed development with its effect on floodplain functions.

#### V. STAFF RECOMMENDATION

Staff recommends the Commission review the staff report and the attached Model Ordinance, and discuss the provisions in preparation to conduct a public hearing on January 16, 2025.

2.112 FLOOD PLAIN OVERLAY DISTRICT (FP)

**2.112.01 Purpose**

The purpose of the Flood Plain Overlay District is to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Minimize expenditure of public money for flood control projects, rescue and relief efforts in areas subject to flooding.
- C. Minimize flood damage to new construction by elevating or flood proofing all structures.
- D. Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.
- E. Control filling, grading, dredging and other development which may be subject to or increase flood damage.
- F. Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.
- G. Comply with the requirements of the Federal Insurance Administration to qualify the City of Lafayette for participation in the National Flood Insurance Program.
- H. Minimize flood insurance premiums paid by the citizens of the City of Lafayette by reducing potential hazards due to flood damage.
- I. Implement the flood plain policies in the City of Lafayette Comprehensive Plan.

**2.112.02 Definitions**

For purposes of this Overlay District, the following terms shall mean:

- A. Accessory Structure - Sheds or small garages that are exempt from elevation or flood proofing requirements. This definition shall be limited to detached structures less than 480 square feet in area.
- B. Area of Special Flood Hazard - Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

- C. Base Flood Level - The flood level having a one (1) percent chance of being equaled or exceeded in any given year (100 year flood plain).
- D. Conveyance - Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.
- E. Development - Any activity that has the potential to cause erosion or increase the velocity or depth of floodwater. Development may include, but is not limited to, residential and non-residential structures, fill, utilities, transportation facilities, and the storage and stockpiling of buoyant or hazardous materials.
- F. Encroachment - Any obstruction in the flood plain which affects flood flows.
- G. Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision - A parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile/manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Ordinance.
- H. Expansion to an Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).
- I. FEMA - The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.
- J. Fill - The placement of any material on the land for the purposes of increasing its elevation in relation to that which exists. Fill material includes, but is not limited to, the following: soil, rock, concrete, bricks, wood stumps, wood, glass, garbage, plastics, metal, etc.
- K. Flood or Flooding - A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.



- L. Flood Boundary Floodway Map (FBFM) - The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Flood Plan, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).
- M. Flood Insurance Rate Map (FIRM) - The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium Districts applicable to the community and is on file with the City of Lafayette.
- N. Flood Insurance Study (FIS) - The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway map and the water surface elevation of the base flood and is on file with the City of Lafayette.
- O. Flood Plain - Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Lafayette.
- P. Flood Proofing - A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.
- Q. Floodway - The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.
- R. Floodway Fringe - The area of the flood plain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.
- S. Hazardous Material - Combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.
- T. Lowest floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

- U. Manufactured home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes mobile homes as defined in sub Q., of this Section. For insurance and floodplain management purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
- V. Manufactured home park or subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- W. Mean sea level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- X. Mobile home - means a vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by sub T., of this Section.
- Y. New Construction- Any structure(s) for which the start of construction commenced on or after the original effective date of the Floodplain Overlay District.
- Z. Obstruction - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that it is placed where the flow of water might carry the same downstream to the damage of life or property.
- AA. Recreational vehicle - means a "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801-350, and 801-565 that is intended for human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in sub V., of this Section.
- BB. Start of Construction - The first placement or permanent construction of a structure (other than a mobile/manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing,

grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not used as part of the main structure.

For a structure (other than a mobile/manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

For mobile/manufactured homes not within a mobile/manufactured home park or manufactured home subdivision, "start of construction" means affixing of the mobile/manufactured home to its permanent site. For mobile/manufactured homes within mobile/manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile/manufactured home is to be affixed (including at a minimum, the construction of streets with final site grading or the pouring of concrete pads, and installation of utilities) is completed.

- CC. Structure - Roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.
- DD. Substantial Improvement - Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the market or assessed value of the structure before the start of construction of the improvement:
  - 1. Before the improvement or repair is started; or
  - 2. If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:
    - a. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.
    - b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided,

the alteration will not preclude the structure's continued designation as an historic structure.

- EE. Watercourse - A natural or artificial channel in which a flow of water occurs either continually or intermittently in identified floodplain.

### **2.112.03 General Provisions**

The following regulations apply to all lands in identified flood plains as shown graphically on the zoning maps. The flood plain is those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Lafayette, Oregon," dated August 1, 1980, with accompanying Flood Insurance Rate Maps. The report and maps are incorporated in the overlay district by this reference and are on file at the City of Lafayette. When base flood elevation data has not been provided, the City Administrator, or designee, shall have the authority to determine the location of the boundaries of the floodplain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination.

- A. Duties of the City Administrator, or designee, shall include, but not be limited to:
  - 1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
  - 2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
  - 3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 2.112.07 L, 1, are met.
- B. Use of Other Base Flood Data: When base flood elevation data has not been provided on the FIRM, or when more detailed data is available, the City Administrator, or designee, shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of this Section.
- C. Information to be Obtained and Maintained:
  - 1. From the developer of the property, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures.

2. For all new or substantially improved flood proofed structures:
    - a. Verify and record the actual elevation as furnished by the developer (in relation to mean sea level), and,
    - b. Maintain any flood-proofing certifications required by this Section.
  3. Maintain for public inspection all records pertaining to the provisions of this Ordinance.
- D. Permitted, but not exempt, activities in the flood area shall be reviewed as a Type I-A action. Activities requiring conditional use approval shall be reviewed as a Type II action.

**2.112.04 Uses - Exempt**

Within a FP (FLOOD PLAIN) Overlay district no uses, structures, vehicles, and premises shall be used or established except as provided in the applicable underlying district and the provisions of this overlay district. Except as provided herein all uses and floodplain development shall be subject to issuance of a determination or a conditional use permit as provided in Section 2.112.05 and 2.112.06. The following uses are exempt from the regulations of this overlay district:

- A. Signs, markers, aids, etc., placed by a public agency to serve the public.
- B. Driveways, parking lots and other open space use areas where no alteration of topography will occur.
- C. Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 2.112.02.
- D. Customary dredging associated with channel maintenance consistent with applicable State or Federal law.
- E. Placement of utility facilities necessary to serve established and permitted uses within flood plain areas, such as telephone poles. This exemption does not apply to buildings, substations, or other types of flood plain development.

**2.112.05 Uses - Permitted**

If otherwise allowed in the district, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit, including the placement of fill to elevate a structure, may be allowed subject to a written determination (flood plain development permit) that the

following requirements are met:

- A. The structure is not located within a floodway.
- B. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.
- C. The structures will be located on natural grade or compacted fill.
- D. The lowest floor will be elevated to one (1) foot above the level of the base flood elevation and the anchoring requirements in Section 2.112.07 F.
- E. The Building Official has determined that any construction and substantial improvements below base flood level meet the requirements of Section 2.112.07 A. 4.
- F. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Section 2.112.06 C, prior to occupancy.
- G. A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the City Administrator, or designee, prior to use of the structure.
- H. No alteration of topography beyond the perimeter of the structure is proposed.
- I. A recreational vehicle may be located in a floodplain only during the non-flood season (June 1 through September 30), provided, it is fully licensed and ready for highway use, or meet the requirements for manufactured homes.

A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and, has no permanently attached additions.

#### **2.112.06 Conditional Use Procedures and Requirements**

- A. Except as provided in Section 2.112.04 and 2.112.05, a conditional use permit shall be obtained before construction or development begins within the Flood Plain Overlay District. The conditional use permit shall include conditions ensuring that the Flood Protection standards in Section 2.112.07 are met.
- B. When base flood elevation data and floodway data have not been provided in accordance with Section 2.112.03, the applicant, with the assistance of the City Administrator, or designee, shall obtain any base flood elevation data or

evidence available from a Federal, State or other source in order to determine compliance with the flood protection standards. If data is insufficient, the City Administrator, or designee, may require that the applicant provide data derived by standard engineering methods.

- C. Prior to occupancy the applicant shall provide a certificate signed by a licensed surveyor or civil engineer certifying that the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved manufactured homes and structures meets the requirements of Sections 2.112.07 A., B., and, C.
- D. In addition to other information required in a conditional use application, the application shall include:
  - 1. Land elevation in mean sea level data at development site and topographic characteristics of the site.
  - 2. Base flood level expressed in mean sea level data on the site.
  - 3. Plot plan showing property location, floodplain, and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken.
  - 4. Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this overlay district.
- E. Factors of Consideration - In reviewing a conditional use application for a development permit, the following factors shall be considered in making a decision on approval or denial of the permit:
  - 1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - 2. The danger that materials may be swept on to other lands or downstream to the injury of others.
  - 3. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination and unsanitary conditions.
  - 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.



5. The importance to the community of the service provided by the proposed facility.
  6. The requirements of the facility for a waterfront location.
  7. The availability of alternative locations not subject to flooding for the proposed use.
  8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  10. The safety of access to property in times of flood for ordinary and emergency vehicles.
  11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
  12. Such other factors which are relevant to the purpose of this Section.
- F. Imposition of Conditions: The City may attach such conditions deemed necessary to further the purpose of this Section. Such conditions may include, but are not limited to:
1. Limitations on periods of use and operation.
  2. Imposition of operation controls, sureties, and deed restrictions.
  3. Flood-proofing measures.

### **2.112.07 Flood Protection Standards**

In all areas of identified flood plain, the following requirements apply:

#### **A. Dwellings and Manufactured Homes**

New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this ordinance shall:

1. Have the lowest floor, including basement, elevated on a permanent foundation to one (1) foot above base flood elevation; and
2. Manufactured homes shall be anchored in accordance with subsection 2.112.07, F; and

3. No manufactured home shall be placed in a floodway, except in an existing manufactured home park.
4. No manufactured home shall be placed in a floodway, except in an existing manufactured home park.
  - a. No manufactured home shall be placed in a floodway, except in an existing manufactured home park.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Manufactured homes in existing manufactured home parks Manufactured homes placed on sites within existing manufactured home parks must be anchored to a permanent foundation and either:

1. Have the lowest floor at, or above, the base flood elevation; or,
2. Have the chassis supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Manufactured homes outside existing manufactured home parks must meet the requirements for residential structures.

C. Non-residential development - New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

1. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. Be certified by a registered professional engineer or architect that the standards in this subsection and subsection 2.112.07, G., are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are flood-proofed.

4. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 2.112.07 A. (4).
5. Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one (1) foot below that level).

D. Accessory Structures such as sheds or detached garages may be exempt from elevation and flood-proofing standards providing the following development standards are met:

1. The structure cannot be more than 480 square feet in area and shall not be used for human habitation;
2. Shall be designed to have low potential for flood damage;
3. Shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwater; and,
4. Shall be firmly anchored to prevent flotation which may result in damage to other structures.

E. Fill

1. Any fill or materials proposed must be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions for the proposed fill or other materials.
2. Such fill or other materials shall be protected against erosion by rip-rap, vegetation cover, or bulk heading.

F. Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
  - a. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at

intermediate locations with manufactured homes more than 50 feet long requiring only one additional tie per side.

- b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points with manufactured homes less than 50 feet long requiring only four ties per side.
  - c. All components of the anchoring system be capable of carrying a force of 4,800 pounds.
  - d. Any additions or expansions to the manufactured home be similarly anchored.
3. An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater (must be certified).

G. Construction Materials and Methods

1. All new construction and substantial improvements below base flood level shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damages.

H. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system as approved by the State Health Division.
2. New and replacement sanitary sewage systems shall be designed and located to minimize flood water contamination consistent with the requirements of the Oregon State Department of Environmental Quality.
3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

- I. Developments, Generally - Residential developments involving more than one single-family dwelling, including subdivisions, manufactured home parks, multiple-family dwellings and planned developments including development regulated under A., and C., shall meet the following requirements:
  1. Be designed to minimize flood damage.
  2. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
  3. Have adequate drainage provided to reduce exposure to flood damage.
  4. Base flood elevation data shall be provided by the developer. In cases where no base flood elevation is available, analysis by standard engineering methods will be required.
  
- J. Storage of materials and equipment - Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.
  
- K. Alteration of watercourses (floodways) - When considering a conditional use permit to allow alteration or modification of a watercourse (floodway) the following shall apply:
  1. Adjacent communities, the Oregon Division of State Lands and the Department of Land Conservation and Development shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Insurance Administration.
  2. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  
- L. Floodways - Located within areas of flood plain established in Section 2.112.03 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential the following provisions shall apply in addition to the requirement in I.: (These provisions shall also apply to areas within a flood plain where a floodway has not been technically determined and the base flood level is three (3) or more feet above the land

surface:)

1. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation is provided by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This evaluation may be submitted to the Federal Emergency Management Agency for technical review.
2. If Section 1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 2.112.07.
3. Prohibit the placement of any manufactured homes except in an existing manufactured home park.
4. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of flood waters beneath the structure.

#### **2.112.08 Generalized Flood Plain Areas**

Where elevation data is generalized, such as the unnumbered A zones on the FIRM, conditional use permits shall include a review and determination that proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed flood plain development is reasonably safe, applicable criteria shall include, among other things, the use of historical data, high water marks, photographs of past flooding, or data (e.g. an engineering study or soil and landscape analysis) may be submitted by qualified professionals that demonstrate the site is not in a floodplain. In such cases, a letter of map amendment may be required by the City Administrator.

#### **2.112.09 Variances**

- A. A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the criteria in Section 2.112.10.
- B. A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and, (2) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection C.

- C. A community shall: (1) maintain a record of all variance actions, including justification for their issuance; and, (2) report such variances issued in its annual report submitted to the Administrator.

#### **2.112.10 Variance Criteria**

The following criteria shall be used to review variance applications.

- A. Variances shall only be issued upon a showing that:
  - 1. There is a good and sufficient cause;
  - 2. That failure to grant the variance would result in exceptional hardship to the applicant;
  - 3. That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws;
  - 4. The variance is the minimum necessary, considering the flood hazard, to afford relief;
  - 5. The variance will be consistent with the intent and purpose of the provision being varied;
  - 6. There has not been a previous land use action approved on the basis that variances would not be allowed; and
  - 7. The new construction or substantial improvement is not within any designated regulatory floodway, or if located in a floodway, no increase in base flood discharge will result.

#### **2.112.11 Warning and Disclaimer of Liability**

The degree of flood protection required by this overlay district is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man-made or natural causes. This zone does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This zone will not create liability on the part of the City of Lafayette, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any decision lawfully made thereunder.

## FEMA Region 10 Model Ordinance Option for Pre-Implementation Compliance Measures (PICM).

Note to Communities: This document presents the draft model ordinance that for the Pre-Implementation Compliance Measures and is intended to closely represent most of the language that will be presented as Pathway A of the Draft Implementation Plan. It is built off the 2020 State of Oregon Model Flood Hazard Management Ordinance and the 2018 iteration of the Oregon Model ordinance for ESA Integration. It reflects the NMFS 2016 Biological Opinion (BiOp) (except where noted) and is informed by the 2023 NEPA Scoping effort.

### Acronyms and Abbreviations

BiOp	Biological Opinion
CFR	Code of Federal Regulations
CLOMR	Conditional Letter of Map Revision
CRS	Community Rating System
dbh	diameter breast height
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
LID	Low-Impact Development
LOMR	Letter of Map Revision
MHHW	Marine Higher-High Water line
NFIP	National Flood Insurance Program
NMFS	National Marine Fisheries Service
OHWM	Ordinary High Water Mark
ORS	Oregon Revised Statutes



ORSC	Oregon Residential Specialty Code
OSSC	Oregon Structural Specialty Code
RBZ	Riparian buffer zone
SFHA	Special Flood Hazard Area
TB	Technical Bulletin

# SECTION 1. FEMA Region 10 Introduction

FEMA has developed this model flood hazard management ordinance (“2024 model ordinance”) to address the requirements outlined in the Draft Implementation Plan for National Flood Insurance Program (NFIP)-Endangered Species Act (ESA) Integration in Oregon (“Oregon Implementation Plan”). The Federal Emergency Management Agency (FEMA) consulted with the National Marine Fisheries Service (NMFS) on potential effects of the implementation of the NFIP in Oregon on listed species under NMFS authority. In 2016, NMFS issued a Biological Opinion (BiOp), which recommended changes to the implementation of the NFIP in Oregon within the plan area (see the 2024 Draft Oregon Implementation Plan for NFIP-ESA Integration [2024 Draft Implementation Plan] for a description of the plan area).

As a result of the BiOp issued by NMFS, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in the SFHA while the 2024 Draft Implementation Plan undergoes an Environmental Impact Statement (EIS). The 2024 model ordinance provides the tools a community would need to implement “Path A” of the 2024 Draft Implementation Plan and serves as one of three actions a community can take under Pre-Implementation Compliance Measures (PICM).

The regulatory language contained within the 2024 model ordinance can be adopted verbatim and incorporated into local floodplain and land use regulations, or a community may select those sections that are missing from its current floodplain ordinance and adopt those sections. The State of Oregon’s Model Flood Hazard Management Ordinance (2020) was used as a starting point, with additions to provide compliance with the Oregon Implementation Plan. The additional sections are clearly noted with yellow highlighting to simplify implementation for Oregon communities in the plan area that have already adopted the Oregon Model Flood Hazard Management Ordinance (2020).

This 2024 model ordinance provides a set of provisions to protect the built environment from flood damage and to minimize potential impacts of construction and reconstruction on public health and safety, property, water quality, and aquatic and riparian habitats. The requirements pertain to new development in Special Flood Hazard Area (see definitions), which includes the maintenance, repair, or remodel of existing structures and utilities when the existing footprint is expanded and/or the floodplain is further encroached upon.

The Oregon Implementation Plan and this model ordinance do not change the definition of development in 44 Code of Federal Regulations [CFR] 59.1.

“Development” is defined as “any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.” (44 C.F.R. 59.1)

The 2024 model ordinance provides compliance with federal and state statutes and with the Oregon Implementation Plan. The 2024 model ordinance conforms to the following:

1. The requirements of the NFIP, as specified in 44 CFR 59 and 60.
2. Oregon State codes to protect structures from flood damage that are specified in Oregon Structural Specialty Code (OSSC), Section 1612 and Oregon Residential Specialty Code (ORSC), Section R322.
3. Oregon Statewide Land Use Planning Goals
4. Provisions needed to meet the requirements of the Oregon Implementation Plan for NFIP-ESA Integration. These sections are highlighted in yellow in the model ordinance.

This 2024 model ordinance provides communities with ordinance language that complies with the NFIP-ESA Integration Implementation Plan. Adoption of the ordinance language will ensure compliance with the minimum standards for participation in the NFIP in the plan area in Oregon. Prior to adoption of the ordinance language, communities must have their locally proposed draft language reviewed by FEMA and/or the Oregon Department of Land Conservation and Development.

The model flood hazard ordinance includes standards and provisions that encourage sound floodplain management. The language is based on the minimum requirements of the NFIP found in 44 CFR 59 and 60, Oregon's statewide land use planning Goal 7, and Oregon specialty codes. The new language added to the state model floodplain ordinance, highlighted in yellow, provides compliance with the ESA for floodplain development in the plan area.

Adherent to the NMFS 2016 Biological Opinion, mitigation is necessary to ensure a no net loss in floodplain functions. FEMA's 2024 Draft Oregon Implementation Plan identifies proxies that provide measurable actions that can prevent the no net loss of the parent floodplain functions. These proxies include undeveloped space, pervious surfaces, and trees to account for a no net loss in respective floodplain functions of floodplain storage, water quality, and vegetation. Mitigation of these proxies must be completed to ensure compliance with no net loss standards. No net loss applies to the net change in floodplain functions as compared to existing conditions at the time of proposed development and mitigation must be addressed to the floodplain function that is receiving the detrimental impact.

#### **MODEL ORDINANCE LANGUAGE LEGEND:**

The colors are used in the text in the model ordinance to denote specific actions or sections with specific applicability.

- **Black:** Represents the existing NFIP and current state minimum requirements that are found in DLCD's 2020 Oregon Model Flood Hazard Management Ordinance.
- **Red:** Represents language that must be replaced with community specific information. Only include the appropriate language for your community.
- **Blue:** Represents hyperlinks to other sections of the document or external websites.

- **Yellow highlighting:** Represents new ordinance language not in DLCD's 2020 Oregon Model Flood Hazard Management Ordinance. Communities that have previously adopted the state model ordinance may focus on the yellow highlighted sections.

## Changes from the 2020 Oregon Model Flood Hazard Management Ordinance

The 2024 FEMA Region 10 version of DLCD's Oregon Model Flood Hazard Ordinance (to be referred to herein as the "2024 Model Ordinance"), varies from DLCD's 2020 Oregon Model Flood Hazard Management Ordinance. With the addition of new content to be included for ESA compliance for NFIP-participating communities in the plan area.

In general, the ordinance was revised to ensure that the implementation of the NFIP-ESA integration no net loss standards avoids or offsets adverse impacts on threatened and endangered species and their critical habitat. A summary of the primary changes found in the 2024 model ordinance is provided below:

1. New language has been added to incorporate the following no net loss standards:
  - a. No net loss of undeveloped space (see Section 6.1.1).
  - b. No net loss of pervious surface. (see Section 6.1.2).
  - c. No net loss of trees equal to or greater than 6 inches dbh (i.e., tree diameter measured at 4.5 feet from the ground surface). (see Section 6.1.3).
2. Some definitions (see 2.0) have been added to provide context for the new no net loss standards from the Oregon Implementation Plan.
3. Language has been added:
  - a. (see 6.3) to address activities that may require a floodplain development permit but are exempt from the no net loss requirement per the BiOp.
  - b. (see 6.4) to address the specific requirements of the Riparian Buffer Zone (RBZ).
4. In general, the language in the 2024 model ordinance mirrors the language from the 2020 Oregon Model Flood Hazard Management Ordinance. Minor edits to the 2020 language have been made for clarity, punctuation, and grammar.

# FEMA Region 10 Model Ordinance Language

To meld the FEMA Region 10 Model Ordinance into the format of the LZDO, the proposed Model Ordinance is changed as shown below. As with all proposed amendments to the LZDO, language within [ ~~brackets and with strikethrough~~ ] is proposed to be deleted. Language in ***bold italics*** is proposed to be added.

## ~~[ 1.0 STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS~~

### ~~1.1 STATUTORY AUTHORIZATION~~

The State of Oregon has in ~~ORS 203.035 (COUNTIES) OR ORS 197.175 (CITIES)~~ delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the ~~COMMUNITY NAME~~ does ordain as follows:

### ~~1.2 FINDINGS OF FACT~~

~~A.~~ The flood hazard areas of ~~COMMUNITY NAME~~ **preserve the natural and beneficial values served by floodplains but** are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

~~B.~~ These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss. ]

## ~~[ 1.3 STATEMENT OF PURPOSE ]~~

### 2.112.01 *Purpose*

*A.* It is the purpose of [ ~~this ordinance~~ ] ***the Floodplain Overlay District*** to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in special flood hazard areas by provisions designed to:

~~[A-] 1.~~ Protect human life and health;

~~[B-] 2.~~ Minimize expenditure of public money for costly flood control projects;

**~~[C-] 3.~~ Preserve natural and beneficial floodplain functions;**

~~[D]~~ 4. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

~~[E]~~ 5. Minimize prolonged business interruptions;

~~[F]~~ 6. Minimize damage to public facilities and utilities such as water , *sewer, storm drain and* [ and ] gas [ mains ] *lines; and* electric [ ,telephone ] *and telecommunications* [ and sewer ] lines; and streets and bridges located in special flood hazard areas;

~~[G]~~ 7. Help maintain a stable tax base by providing for the sound use and development of *special* flood hazard areas [ so as ] to minimize blight areas caused by flooding;

~~[H]~~ 8. Notify potential buyers [ that the ] *a* property is in a special flood hazard area;

~~[I]~~ 9. Notify those who occupy special flood hazard areas that they assume responsibility for their actions;

~~[J]~~ 10. Participate in and maintain eligibility for flood insurance and disaster relief.

*11. Implement the floodplain policies of the City of Lafayette Comprehensive Plan.*

#### [ 1.4 ] **B. Methods of Reducing Flood Losses**

~~[ In order to ]~~ To accomplish its purposes, ~~[ this ordinance ]~~ *the Floodplain Overlay District* includes methods and provisions for:

~~[A]~~ 1. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

~~[B]~~ 2. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

~~[C]~~ 3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

~~[D]~~ 4. Controlling filling, grading, dredging, and other development which may increase flood damage;

~~[E]~~ 5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

~~[F]~~ 6. Employing a standard of “no net loss” of natural and beneficial floodplain functions.

#### [ 2.0 DEFINITIONS ]

##### 2.112.02 *Definitions*

[ Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage. ] ***For purposes of the Floodplain Overlay District, the following terms shall mean:***

**Appeal:** A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

**Area of shallow flooding:** A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard (SFHA):** The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR [ ~~(V, V1-30, VE)~~ ]. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard."

**Base flood:** The flood having a one percent chance of being equaled or exceeded in any given year.

**Base flood elevation (BFE):** The elevation to which floodwater is anticipated to rise during the base flood.

**Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation , [ ~~or~~ ] drilling operations or storage of equipment or materials.

**Fill:** Placement of any materials [ such as- ] ***including, but not limits to*** soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is [ ~~considered~~ ] "development."

**Fish Accessible Space:** The volumetric space available to fish to access.

**Fish Egress-able Space:** The volumetric space available to fish to exit or leave from.

**Flood or Flooding:**

- [ ~~(a)~~ ] **A.** A general and temporary condition of partial or complete inundation of normally dry land areas from:
- [ ~~(1)~~ ] **1.** [ ~~(+)~~ ] The overflow of inland or tidal waters.
  - [ ~~(2)~~ ] **2.** [ ~~(+)~~ ] The unusual and rapid accumulation or runoff of surface waters from any source.
  - [ ~~(3)~~ ] **3.** [ ~~(+)~~ ] Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and

deposited along the path of the current.

- [~~(b)~~] B.** The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation study:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood Insurance Rate Map (FIRM):** The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS):** See "Flood elevation study."

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

**Functionally Dependent Use:** A use which cannot perform its intended purpose unless it is located or carried out in proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Green Infrastructure:** Use of natural or human-made hydrologic features to manage water and provide environmental and community benefits. Green infrastructure uses management approaches and technologies that use, enhance, and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse. At a large scale, it is an interconnected network of green space that conserves natural systems and provides assorted benefits to human populations. At a local scale, it manages stormwater by infiltrating it into the ground where it is generated using vegetation or porous surfaces, or by capturing it for later reuse. Green infrastructure practices can be used to achieve no net loss of pervious surface by creating infiltration of stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface.

**Habitat Restoration Activities:** Activities with the sole purpose of restoring habitats that have only temporary impacts and long-term benefits to habitat. Such projects cannot include ancillary structures such as a storage shed for maintenance equipment, must demonstrate that no rise in the BFE would occur as a result of the project and obtain a CLOMR and LOMR, and have obtained any other required permits (e.g., CWA Section 404 permit).

**Hazard Trees:** Standing dead, dying, or diseased trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or as defined by the community.



Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

~~[-(a)]~~ **A.** Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

~~[-(b)]~~ **B.** Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

~~[-(c)]~~ **C.** Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

~~[-(d)]~~ **D.** Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

~~[-]~~ **1.** ~~[+]~~ By an approved state program as determined by the Secretary of the Interior or

~~[-]~~ **2.** ~~[+]~~ Directly by the Secretary of the Interior in states without approved programs.

Hydraulically Equivalent Elevation: A location (e.g., a site where no net loss standards are implemented) that is approximately equivalent to another (e.g., the impacted site) relative to the same 100-year water surface elevation contour or base flood elevation. This may be estimated based on a point that is along the same approximate line perpendicular to the direction of flow.

Hydrologically Connected: The interconnection of groundwater and surface water such that they constitute one water supply and use of either results in an impact to both.

Impervious Surface: A surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Such surfaces can accumulate large amounts of pollutants that are then “flushed” into local water bodies during storms and can also interfere with recharge of groundwater and the base flows to water bodies.

Low Impact Development: An approach to land development (or redevelopment) that works with nature to manage stormwater as close to its source as possible. It employs principles such as preserving and recreating natural landscape features and minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Low Impact Development refers to designing and implementing practices that can be employed at the site level to control stormwater and help replicate the predevelopment hydrology of the site. Low impact development helps achieve no net loss of pervious surface by infiltrating stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface. LID is a subset of green infrastructure.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other

than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured dwelling: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."

Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean Higher-High Water: The average of the higher-high water height of each tidal day observed over the National Tidal Datum Epoch.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by [ ~~COMMUNITY NAME~~ ] *the City of Lafayette* and includes any subsequent improvements to such structures.

No Net Loss: A standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function from the existing condition when a development application is submitted to the state, tribal, or local jurisdiction. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

Offsite: Mitigation occurring outside of the project area.

Onsite: Mitigation occurring within the project area.

Ordinary High Water Mark: The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Qualified Professional: Appropriate subject matter expert that is defined by the community.

Reach: A section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between major tributaries or two stream gages, or a length of river for which the characteristics are well described by readings at a single stream gage.

Recreational vehicle: A vehicle which is: [Need to resolve any issue between the DLC Model Ord definition which refers to OAR 801-180, 801-350 and 801-565. ]

~~(a)~~ **A.** Built on a single chassis;

~~(b)~~ **B.** 400 square feet or less when measured at the largest horizontal projection;

~~[-(c)-]~~ **C.** Designed to be self-propelled or permanently towable by a light duty truck; and

~~[-(d)-]~~ **D.** Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Riparian:** Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

**Riparian Buffer Zone (RBZ):** The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water line of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or 170 feet inland from the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.

**Riparian Buffer Zone Fringe:** The area outside of the RBZ and floodway but still within the SFHA.

**Silviculture:** The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.

**Special flood hazard area:** See "Area of special flood hazard" for this definition.

**Start of construction:** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure:** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

**Substantial damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

~~[-(a)-]~~ **A.** Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

~~[-(b)-]~~ **B.** Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Undeveloped Space:** The volume of flood capacity and fish-accessible/egress-able habitat from the existing ground to the Base Flood Elevation that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat must achieve no net loss.

**Variance:** A grant of relief by [ **COMMUNITY NAME** ] *the City of Lafayette* from the terms of a floodplain management regulation.

**Violation:** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

### [ ~~3.0~~ GENERAL PROVISIONS ]

#### 2.112.03      *General Provisions*

### [ ~~3.1~~ LANDS TO WHICH THIS ORDINANCE APPLIES ]

#### *A. Applicability*

[ This ordinance shall apply ] *The Floodplain Overlay District applies* to all special flood hazard areas within the jurisdiction of [ **COMMUNITY NAME**. ] *the City of Lafayette.*

### [ ~~3.2~~ BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS ]

#### *B. Basis For Establishing The Special Flood Hazard Areas*

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for [ ~~EXACT TITLE OF FLOOD INSURANCE STUDY FOR COMMUNITY~~ ] *"Yamhill County, Oregon and Incorporated Areas,"* dated [ ~~DATE (MONTH DAY, FOUR DIGIT YEAR)~~ ] *March 2, 2010,* with accompanying Flood Insurance Rate Maps (FIRMs) *41071C0556D, 41071C0557D and 41071C0559D,* [ ~~LIST ALL EFFECTIVE FIRM PANELS HERE (UNLESS ALL PANELS ARE BEING REPLACED THROUGH A NEW COUNTY-WIDE MAP THAT INCORPORATES ALL PREVIOUS PANELS/VERSIONS, IN THAT SITUATION PANELS DO NOT NEED TO BE INDIVIDUALLY LISTED)~~ ] are hereby [ ~~adopted~~ ] *incorporated into the Floodplain Overlay District* by *this* reference [ ~~and declared to be a part of this ordinance~~ ]. The FIS and FIRM panels are on file at [ ~~INSERT THE LOCATION (I.E. COMMUNITY PLANNING DEPARTMENT LOCATED IN THE COMMUNITY ADMINISTRATIVE BUILDING).~~ ] *the City of Lafayette Administration Department at City Hall.*

~~[ 3.3 COORDINATION WITH STATE OF OREGON SPECIALTY CODES ]~~

*C. Coordination With State of Oregon Specialty Codes*

Pursuant to the requirement established in ORS 455 that the [ ~~COMMUNITY NAME~~ ] *City of Lafayette* administers and enforces the State of Oregon Specialty Codes. ~~[±] The [ COMMUNITY NAME ] City of Lafayette does hereby acknowledge [that] the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, [ this ordinance ] the Floodplain Overlay District is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.~~

~~[ 3.4 COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE ]~~

*D. Compliance and Penalties For Noncompliance*

~~[ 3.4.1 ] COMPLIANCE ]~~

1. All development within special flood hazard areas is subject to the terms of [ ~~this ordinance~~ ] *the Floodplain Overlay District* and *is* required to comply with its provisions and all other applicable regulations.

~~[ 3.4.2 ] PENALTIES FOR NONCOMPLIANCE ]~~

2. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of [ ~~this ordinance~~ ] *the Floodplain Overlay District* and other applicable regulations. Violations of the provisions of [ ~~this ordinance~~ ] *the Floodplain Overlay District* by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall *be administered in accordance with Section 1.102.03, Violations.* ~~[ constitute a ] [ (INFRACTION TYPE (I.E. MISDEMEANOR) AND PENALTIES PER STATE/LOCAL LAW ASSOCIATED WITH SPECIFIED INFRACTION TYPE (I.E. ANY PERSON WHO VIOLATES THE REQUIREMENTS OF THIS ORDINANCE SHALL UPON CONVICTION THEREOF BE FINED NOT MORE THAN A SPECIFIED AMOUNT OF MONEY..)) ]~~ Nothing contained herein shall prevent the [ ~~COMMUNITY NAME~~ ] *City of Lafayette* from taking such other lawful action as is necessary to prevent or remedy any violation.

~~[ 3.5 ABROGATION AND SEVERABILITY ]~~

*.E. Abrogation and Severability*

~~[ 3.5.1 ] ABROGATION ]~~

1. [ ~~This ordinance~~ ] *The Floodplain Overlay District* is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where [ ~~This ordinance~~ ] *the Floodplain Overlay District* and another ordinance, easement, covenant, or deed restriction conflict or overlap , whichever imposes the more stringent restrictions shall prevail.

[ ~~3.5.2~~ SEVERABILITY ]

2. [ This ordinance ] *The Floodplain Overlay District* and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the [ Ordinance ] *Floodplain Overlay District* is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of the [ Ordinance ] *Floodplain Overlay District*.

[ ~~3.6~~ INTERPRETATION ]

F. *Interpretation*

In the interpretation and application of this ordinance, all provisions shall be:

- ~~[A-]~~ 1. Considered as minimum requirements;
- ~~[B-]~~ 2. Liberally construed in favor of the governing body; and
- ~~[C-]~~ 3. Deemed neither to limit nor repeal any other powers granted under state statutes.

[ ~~3.7~~ WARNING AND DISCLAIMER OF LIABILITY ]

G. *Warning and Disclaimer of Liability*

[ ~~3.7.1~~ WARNING ]

1. The degree of flood protection required by [ this ordinance ] *the Floodplain Overlay District* is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. [ This ordinance ] *The Floodplain Overlay District* does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

[ ~~3.7.2~~ DISCLAIMER OF LIABILITY ]

2. [ This ordinance ] *The Floodplain Overlay District* shall not create liability on the part of the [ ~~COMMUNITY NAME~~ ] *the City of Lafayette*, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

[ ~~4.0~~ ADMINISTRATION ]

2.112.04 *Administration*

[ ~~4.1~~ DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR ]

- A. The [ ~~INDIVIDUAL JOB TITLE~~ ] *City Administrator* is hereby [ appointed ] *designated Floodplain Administrator* to administer, implement, and enforce [ this ordinance ] *the*

*Floodplain Overlay District* by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

[Additional Recommended Language Provided in Appendix B](#)

[ **4.2 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR** ]

B. Duties of the floodplain administrator, or [ ~~their~~ ] designee, shall include, but not be limited to:

[ **4.2.1** ~~PERMIT REVIEW~~ ]

1. Review [ ~~all~~ ] *Floodplain* [ ~~&~~ ] *Development* [ ~~p~~ ] ~~Permits~~ to:

- [ A ] a. Determine [ ~~that~~ ] the permit requirements of [ ~~this ordinance~~ ] *the Floodplain Overlay District* have been [ ~~satisfied~~ ] *met*;
- [ B ] b. Determine that all other required local, state, and federal permits have been obtained and approved;
- [ C ] c. Determine if the proposed development is located in a floodway.
  - i. If located in the floodway [ ~~assure~~ ] *ensure* [ ~~that~~ ] the floodway provisions of [ ~~this ordinance in~~ ] *the Floodplain Overlay District*, [ ~~s~~ ] ~~Section [5.2.4] 2.112.06, E, Floodways~~, are met; and
  - ii. Determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of [ ~~s~~ ] ~~Section [5.1.7] 2.112.05, H, General Standard - Use of Other Base Flood Elevation Data~~, and
  - iii. Provide to building officials the Base Flood Elevation (BFE) [(ADD FREEBOARD IF COMMUNITY HAS HIGHER ELEVATION STANDARDS) ] , *including the 1.0 foot freeboard above the BFE* applicable to any building requiring a development permit.
- [ D ] d. Determine if the proposed development qualifies as a substantial improvement as defined in [ ~~s~~ ] ~~Section [2.0] 2.112.02, Definitions~~.
- [ E ] e. Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in [ ~~s~~ ] ~~Section [5.1.1] 2.112.05, B, General Standard - Alteration of Watercourses~~.
- [ F ] f. Determine if the proposed development activity includes the placement of fill or excavation.



[ G ] **g.** Determine whether the proposed development activity complies with the no net loss standards in Section ~~[6.0]~~ **2.112.07, Standards For Protection of Special Floodplain Hazard Area Floodplain Functions.**

[ ~~4.2.2~~ INFORMATION TO BE OBTAINED AND MAINTAINED ]

**2. Information to be Obtained and Maintained**

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

[ A ] **a.** The actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with [ s ] ~~Section [5.1.7]~~ **2.112.05, H, General Standard - Use of Other Base Flood Elevation Data,**

[ B ] **b.** The elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of [ s ] ~~Sections [4.2.1(B)]~~ **2.112.04, B, 1, b, Permit Review,** and [ ~~5.2.4~~ ] **2.112.06, E, Floodways,** [ and ~~5.3.1(F)~~ ] are adhered to.

[ C ] **c.** Upon placement of the lowest floor of a structure (including basement), but prior to further vertical construction, documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).

[ D ] **d.** Where base flood elevation data are utilized, As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.

[ E ] **e.** Maintain all Elevation Certificates (EC) submitted to the community.

[ F ] **f.** The elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under [ ~~this ordinance~~ ] **the Floodplain Overlay District** and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with [ ~~s~~ ] ~~Section [5.1.7]~~ **2.112.05, H, General Standard - Use of Other Base Flood Elevation Data.**

[ G ] **g.** All floodproofing certificates required under [ ~~this ordinance in~~ ] **the Floodplain Overlay District.**

[ H ] **h.** All variance actions, including justification for their issuance.

[ I ] **i.** All hydrologic and hydraulic analyses performed as required under [ ~~s~~ ] ~~Section [5.2.4]~~ **2.112.06, E, Floodways.**



[ J ] *j.* All Substantial Improvement and Substantial Damage calculations and determinations as required under ~~[s]~~ Section ~~[4.2.4]~~ **2.112.04, B, X, X, Substantial Improvements and Substantial Damage Assessments and Determinations.**

[ K ] *k.* Documentation of how no net loss standards have been met (see Section ~~[6.0]~~ **2.112.07, Standards For Protection Of Special Flood Hazard Area Floodplain Functions).**

[ L ] *l.* All records pertaining to the provisions of ~~[this ordinance in ]~~ **the Floodplain Overlay District.**

~~[ 4.2.3 REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA ]~~

**3. Requirement to Notify Other Entities and Submit New Technical Data**

~~[ 4.2.3.1 COMMUNITY BOUNDARY ALTERATIONS ]~~

*a. Community Boundary Alterations*

The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

~~[ 4.2.3.2 WATERCOURSE ALTERATIONS ]~~

*b. Watercourse Alterations*

~~[A]~~ **1.** Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

- i. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
- ii. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

- ~~[-B-] 2.~~ The applicant shall ~~[-be required to-]~~ submit a Conditional Letter of Map Revision (CLOMR) when required under ~~[-s-] Section [-4.2.3.3-] 2.112.04, B, 3, c, Requirement To Submit New Technical Data.~~ Ensure compliance with all applicable requirements in ~~[-s-] Sections [-4.2.3.3-] 2.112.04, B, 3, c, Requirement To Submit New Technical Data~~ and ~~[-5.1.1-] 2.112.05, B, General Standard – Alteration of Watercourses.~~

~~[ 4.2.3.3 — REQUIREMENT TO SUBMIT NEW TECHNICAL DATA ]~~

*c. Requirement to Submit New Technical Data*

- ~~[-A-] 1.~~ A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.
- ~~[-B-] 2.~~ The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
- i. Proposed floodway encroachments that increase the base flood elevation; and
  - ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- ~~[-C-] 3.~~ An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

[Additional Recommended Language Provided in Appendix B](#)

~~4.2.4 SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS~~

*4. Substantial Improvement and Substantial Damage Assessments and Determinations*

- a.* Conduct Substantial Improvement (SI), ~~[-+]~~ as defined in ~~[-s-] Section [-2.0-] 2.112.02,~~ reviews for all structural development ~~[-proposal-]~~ applications and maintain a record of SI calculations within permit files in accordance with ~~[-s-] Section [-4.2.2-] 2.112.04, B, 2, Information To Be Obtained and Maintained.~~
- b.* Conduct Substantial Damage (SD), ~~[-+]~~ as defined in ~~[-s-] Section [-2.0-] 2.112.02,~~ assessments when structures are damaged due to a natural

hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in ~~[-s-]~~ Section ~~[-3.2-]~~ **2.112.03, B, Basis For Establishing The Special Flood Hazard Areas**, are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

[ ~~4.3~~ ESTABLISHMENT OF DEVELOPMENT PERMIT ]

*C. Establishment of Floodplain Development Permit (FDP)*

[ ~~4.3.1~~ FLOODPLAIN DEVELOPMENT PERMIT REQUIRED ]

*1. Floodplain Development Permit Required*

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in ~~[-s-]~~ Section ~~[-3.2-]~~ **2.112.03, B, Basis For Establishing The Special Flood Hazard Areas**. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in ~~[-s-]~~ Section ~~[-2.0-]~~ **2.112.02**, including fill and other development activities.

[ ~~4.3.2~~ APPLICATION FOR DEVELOPMENT PERMIT ]

*2. Application For Floodplain Development Permit*

*a.* Application for a development permit ~~[ may ]~~ **must** be made on forms furnished by the Floodplain Administrator and ~~[ may ]~~ **must** include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. ~~[ Specifically, ]~~ ~~[ The ]~~ ~~[ following ]~~ information **in Section C, 2, b - h**, is required:

~~[-A-]~~ *b.* In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of ~~[-s-]~~ Section ~~[-4.2.2-]~~ **2.112.04, B, 2, Information To Be Obtained and Maintained**.

~~[-C-]~~ *c.* Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

~~[-D-]~~ *d.* Certification by a registered professional engineer ~~[ or architect ]~~ licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing

criteria for non-residential structures in ~~[s]~~ Section ~~[5.2.3.3]~~ **2.112.05, B, 2, Non-Residential Construction.**

~~[E]~~ **e.** Description of the extent to which any watercourse will be altered or relocated.

~~[F]~~ **f.** Base Flood Elevation data for subdivision proposals or other development when required per [ s ] Sections ~~[4.2.1]~~ **2.112.04, B, 1, Permit Review,** and ~~[5.1.6]~~ **2.112.05, G, General Standard – Subdivisions and Other Developments.**

~~[G]~~ **g.** Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

~~[H]~~ **h.** The amount and location of any fill or excavation activities proposed.

#### ~~[ 4.4 ] VARIANCE PROCEDURE ]~~

##### **D. Variance Procedure**

- 1.** The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

#### ~~[ 4.4.1 ] CONDITIONS FOR VARIANCES ]~~

- ~~[A]~~ **2.** Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of sections 4.4.1 (C) and (E), and 4.4.2. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- ~~[B]~~ **3.** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- ~~[C]~~ **4.** Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- ~~[D]~~ **5.** Variances shall only be issued upon:
  - ~~[+]~~ **a.** A showing of good and sufficient cause;
  - ~~[+]~~ **b.** A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

~~[-iii-]~~ **c.** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

~~[-E-]~~ **6.** Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section 4.4.1 (B) –(D) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

~~[-F-]~~ **7.** Variances shall not be issued unless it is demonstrated that the development will not result in net loss of the following proxies for the three floodplain functions in the SFHA: undeveloped space; pervious surface; or trees 6 inches dbh or greater (see Section 6.0 and associated options in Table 1).

#### [Additional Optional Language Provided in Appendix B.](#)

#### ~~[ 4.4.2 VARIANCE NOTIFICATION ]~~

~~[-H-]~~ **8.** Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the ~~[ b ]~~ **Base** ~~[-f-]~~ **Flood** ~~[-e-]~~ **Elevation** increases risks to life and property. ~~[ Such ]~~ **The notification required in Subsection D, 8,** and a record of all variance actions, including justification for their issuance ] shall be maintained in accordance with ~~[ s ]~~ **Section** ~~[-4.2.2-]~~ **2.112.04, B, 2, Information To Be Obtained and Maintained.**

#### ~~[ 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION ]~~

##### *2.112.05 Flood Hazard Reduction Standards*

#### ~~[ 5.1 GENERAL STANDARDS ]~~

**A.** In all special flood hazard areas, the **no net loss standards (see Section** ~~[-6.0-]~~ **2.112.07, Standards For Protection of SFHA Floodplain Functions)** and the following standards shall be adhered to:

#### ~~[ 5.1.1 ALTERATION OF WATERCOURSES ]~~

##### **B. General Standard – Alteration of Watercourses**

~~[ Require that t ]~~ **The flood carrying capacity within the altered or relocated portion of** ~~[ said-]~~ **the watercourse** ~~[-is-]~~ **shall be maintained.** ~~[ Require that m ]~~ **Maintenance** ~~[-is-]~~ **shall be provided within the altered or relocated portion of said watercourse** ~~[-to-]~~ **and ensure** ~~[ that ]~~ **the flood carrying capacity is not diminished.** ~~[ Require compliance ]~~ **The alteration shall comply with** ~~[-s-]~~

Sections ~~[4.2.3.2]~~ XXXXXX and ~~[4.2.3.3]~~ XXXXXX.

[ ~~5.1.2~~ ANCHORING ]

**C. General Standard - Anchoring**

[ A ]1. [ ~~All~~ ] New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

[ B ]2. [ ~~All~~ ] Manufactured dwellings shall be anchored per ~~[5.2.3.4]~~ **2.112.06, D, 5, Manufactured Dwellings.**

[ ~~5.1.3~~ CONSTRUCTION MATERIALS AND METHODS ]

**D. General Standard - Construction Materials and Methods**

[~~A~~]-1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[~~B~~]-2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

[ ~~5.1.4~~ UTILITIES AND EQUIPMENT ]

**E. General Standard - Utilities and Equipment**

[ ~~5.1.4.1~~ WATER SUPPLY, SANITARY SEWER, AND ON SITE WASTE DISPOSAL SYSTEMS ]

[~~A~~]-1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

[~~B~~]-2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

[~~C~~]-3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

[ ~~5.1.4.2~~ ELECTRICAL, MECHANICAL, PLUMBING, AND OTHER EQUIPMENT ]

**4.** Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall ***comply with the following:***

- a.** [~~be~~] ***Be*** elevated [ ~~at or~~ ] ***a minimum of 1-foot*** above the base flood ***elevation (BFE)***, [ level ~~(ANY COMMUNITY FREEBOARD REQUIREMENT)~~ ] or shall be designed and installed to prevent water from entering or accumulating within

the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. [ ~~In addition, electrical, heating, ventilating, air conditioning, plumbing, duct systems, and other equipment and service facilities shall:~~ ]

[~~A-~~] *b.* If replaced as part of a substantial improvement shall meet all the requirements of this *Subsection 2.122.05, E, 4.*

[ ~~5.1.5~~ TANKS ]

*F. General Standard - Tanks*

[~~A-~~]1. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

[~~B-~~]2. Above-ground tanks shall be installed [ ~~at or~~ ] ***a minimum of 1.5 feet*** above the base flood [ ~~level~~ (COMMUNITY FREEBOARD REQUIREMENT) ] ***elevation*** [ ~~or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.~~ ]

[ ~~5.1.6~~ SUBDIVISION PROPOSALS AND OTHER PROPOSED DEVELOPMENTS ]

*G. General Standard - Subdivisions and Other Developments*

[~~A-~~]1. [ ~~All new-s~~ ] ***Subdivision*** [ ~~proposals~~ ] ***applications*** and other [ ~~proposed~~ ] new development ***applications*** (including [ ~~proposals~~ ] ***applications*** for manufactured dwelling parks and ***manufactured dwelling*** subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, [ ~~shall~~ ] ***must*** include within [ ~~such proposals~~ ] ***the applications*** Base Flood Elevation data.

[~~B-~~]2. [ ~~All new-s~~ ] ***Subdivision*** [ ~~proposals~~ ] ***applications*** and other [ ~~proposed~~ ] new development[~~s~~] ***applications*** (including [ ~~proposals~~ ] ***applications*** for manufactured dwelling parks and ***manufactured dwelling*** subdivisions) [ ~~shall~~ ] ***must***.

[~~i-~~]a. Be consistent with the need to minimize flood damage.

[~~ii-~~]b. Have public utilities and facilities [ ~~such as~~ ] ***including, but not limited to*** sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

[~~iii-~~]c. Have adequate drainage provided to reduce exposure to flood hazards.

[~~iv-~~]d. Comply with ***the no net loss standards in*** [~~s-~~] ***Section*** [~~6.0-~~] ***2.112.07, Standards For Protection of SFHA Floodplain Functions.***

[ ~~5.1.7~~ USE OF OTHER BASE FLOOD ELEVATION DATA ]

**H. General Standard – Use of Other Base Flood Elevation Data**

- ~~[A-]1.~~ When Base Flood Elevation data has not been provided in accordance with ~~[S-] Section [ 3-2 ] 2.112.03, B, Basis For Establishing The Special Flood Hazard Areas,~~ the local ~~[F-] Floodplain [A-] Administrator~~ shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, ~~[ in order-] to administer [S-] Section [5-0-] 2.112.05, Flood Hazard Reduction Standards.~~ ~~[ All new-s ] Subdivision [ proposals ] applications~~ and other ~~[ proposed ] new development[S-] applications~~ (including ~~[ proposals ] applications~~ for manufactured dwelling parks and *manufactured dwelling* subdivisions) must meet the requirements of ~~[S-] Section [ 5-1-6 ] 2.112.05. G, Subdivision and Other Development Applications.~~
- ~~[B-]2.~~ Base Flood Elevations shall be determined for development ~~[ proposals ] applications~~ that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation.
- 3.** Development ~~[ proposals ] applications~~ located within a riverine unnumbered A Zone shall be reasonably safe from flooding ~~[ +/- ] . [ +/- ]~~ The test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, ~~[ and ]~~ photographs of past flooding, etc... where available. *Where this type of information is used for regulatory purposes for residential structures, and where the Floodplain Administrator is uncertain as to whether it is reasonably safe from flooding, the minimum elevation of residential structures and non-residential structures that are not dry floodproofed, shall be a minimum of 2-feet above the highest adjacent grade.* ~~[ (REFERENCE TO ANY OF THIS TYPE OF INFORMATION- TO BE USED FOR REGULATORY PURPOSES BY YOUR COMMUNITY, I.E. BASE LEVEL ENGINEERING DATA, HIGH WATER MARKS, HISTORICAL OR OTHER DATA THAT WILL BE REGULATED TO. THIS MAY BE NECESSARY TO ENSURE THAT THE STANDARDS APPLIED TO RESIDENTIAL STRUCTURES ARE CLEAR AND OBJECTIVE. IF UNCERTAIN- SEEK LEGAL ADVICE, AT A MINIMUM REQUIRE THE ELEVATION OF RESIDENTIAL STRUCTURES AND NON-RESIDENTIAL STRUCTURES THAT ARE NOT DRY FLOODPROOFED TO BE 2 FEET ABOVE HIGHEST ADJACENT GRADE). ]~~ Failure to elevate at least two feet above grade in ~~[ these zones- ]~~ *riverine unnumbered A Zones* may result in higher insurance rates.

~~[ 5.1.8 STRUCTURES LOCATED IN MULTIPLE OR PARTIAL FLOOD ZONES ]~~

**I. General Standard - Structures Located in Multiple or Partial Flood Zones**

In coordination with the State of Oregon Specialty Codes:

- ~~[A-]1.~~ When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.
- ~~[B-]2.~~ When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial



improvements.

[Additional Recommended Language Provided in Appendix B.](#)

[ **5.2 SPECIFIC STANDARDS FOR RIVERINE (INCLUDING ALL NON-COASTAL) FLOOD ZONES** ]

**2.112.06 Standards For Riverine (including all non-coastal) Flood Zones**

- A. [ These specific ] **The** standards [ shall ] **in Section 2.112.06** apply to [ all ] new construction and substantial improvements, in addition to the General Standards [ contained ] in [ -s- ] **Section [ 5.1 of this Ordinance ] 2.112.05, Flood Hazard Reduction Standards, and the no net loss standards [ (see Section 6.0) ] in Section 2.112.07, Standards For Protection of SFHA Floodplain Functions.**

[ **5.2.1 FLOOD OPENINGS** ]

**B. Flood Openings**

1. [ All n ] **New** construction and substantial improvements with fully enclosed areas below the lowest floor [ -+ ] , excluding basements , [ -+ ] are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:
- [ -A- ] **a.** Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
  - [ -B- ] **b.** Be used solely for parking, storage, or building access;
  - [ -C- ] **c.** Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
    - i. A minimum of two openings;
    - ii. The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;
    - iii. The bottom of all openings shall be no higher than one foot above grade;
    - iv. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and,
    - v. All additional higher standards for flood openings in the State of Oregon Residential Specialty Code [ -s- ] Section R322.2.2 shall be complied with when applicable.

~~[ 5.2.2 — GARAGES ]~~

**C. Garages**

~~[A-]1.~~ Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:

- ~~[+]~~*a.* If located within a floodway the proposed garage must comply with the requirements of ~~[§]~~ Section ~~[5.2.4]~~ **2.112.06, E, Floodways**;
- ~~[+]~~*b.* The floors are at or above grade on not less than one side;
- ~~[+]~~*c.* The garage is used solely for parking, building access, and/or storage;
- ~~[+]~~*d.* The garage is constructed with flood openings in compliance with ~~[§]~~ Section ~~[5.2.1]~~ **2.112.06, B, Flood Openings**, to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;
- ~~[+]~~*e.* The portions of the garage constructed below the **level that is 1.5 feet above the Base Flood Elevation (BFE)** are constructed with materials resistant to flood damage;
- ~~[+]~~*f.* The garage is constructed in compliance with the standards in ~~[§]~~ Section ~~[5.1]~~ **2.112.05, Flood Hazard Reduction – General Standards**; and,
- ~~[+]~~*g.* The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

~~[B-]2.~~ Detached garages must be constructed in compliance with the standards for appurtenant structures in ~~[§]~~ Section ~~[5.2.3.6]~~ **2.112.06, D, 7, Appurtenant (accessory) Structures**, or non-residential structures in ~~[§]~~ Section ~~[5.2.3.3]~~ **2.112.06, D, 4, Non-Residential Construction**, depending on the square footage of the garage.

~~[5.2.3 FOR RIVERINE (NON-COASTAL) SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATIONS ]~~

**D. Standards For Riverine (Non-Coastal) Special Flood Hazard Area With Base Flood Elevations**

- 1.** In addition to the general standards ~~[listed]~~ in ~~[§]~~ Section ~~[5.1]~~ **2.112.05, Flood Hazard Reduction – General Standards**, the following ~~[ specific ]~~ standards ~~[ shall ]~~ apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1 – A30, AH and AE.

~~[ 5.2.3.1 — BEFORE REGULATORY FLOODWAY ]~~

## 2. *Before Regulatory Floodway*

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community and will not result in the net loss of flood storage volume. **When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in [ s] Section [ ~~6.1.C~~ ] 2.112.07, A, 3, No Net Loss Standards.**

### [ 5.2.3.2 — RESIDENTIAL CONSTRUCTION ]

## 3. *Residential Construction*

- [A-]a. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated [ ~~at or~~ ] **to the level that is a minimum of 1,5 feet** above the Base Flood Elevation (BFE) [ ~~( ADDITIONAL FREEBOARD FOR YOUR COMMUNITY RECOMMEND MINIMUM OF 1FT ABOVE BFE. )~~ ]
- [B-]b. Enclosed areas below the lowest floor shall comply with the flood opening requirements in [ ~~s~~ ] Section [ ~~5.2.1~~ ] 2.112.06, B, *Flood Openings*.

### [ 5.2.3.3 — NON RESIDENTIAL CONSTRUCTION ]

## 4. *Non-Residential Construction*

- [ A ]a. New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:
- i. Have the lowest floor, including basement elevated [ ~~at or~~ ] **to a level a minimum of 1.5 feet** above the Base Flood Elevation (BFE) [ ~~( ANY ADDITIONAL FREEBOARD REQUIREMENTS FOR YOUR COMMUNITY )~~ ];  
or
  - ii. Together with attendant utility and sanitary facilities [ ~~;-a-B-~~ ] **be** floodproofed so that below the **level that is 1.5 feet above the** base flood [ ~~level~~ ] **elevation** the structure is watertight with walls substantially impermeable to the passage of water;
  - [ ~~b~~ ]iii. **Together with attendant utility and sanitary facilities** [ ~~H~~ ] **have** structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
  - [ ~~e~~ ]iv. **Together with attendant utility and sanitary facilities** [ B ] **be** certified by a registered professional engineer [ ~~or Architect~~ ] that the design and methods of construction are in accordance with accepted standards of

practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth *in* ~~[-s-]~~ **Section [ 4.2.2 ] 2.112.04, B, 2, Information to be Obtained and Maintained.**

~~[-B-]~~**b.** Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in ~~[-s-]~~ **Section [ 5.2.4 ] 2.112.06, B, Flood Openings.**

~~[-C-]~~**c.** Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the **level that is a minimum of 1.5 feet above the** ~~[-b-]~~**Base** ~~[-f-]~~ **Flood [ level ] Elevation** will be rated as one (1) foot below **the Base Flood Elevation..**

#### ~~[ 5.2.3.4 ]~~ **MANUFACTURED DWELLINGS ]**

##### **5. Manufactured Dwellings**

~~[-A-]~~**a.** Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with ~~[-s-]~~ **Section [ 5.2.4 ] 2.112.06, B, Flood Openings,**

~~[-B-]~~**b.** The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;

~~[-C-]~~**c.** Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;

~~[-D-]~~**d.** Electrical crossover connections shall be a minimum of twelve (12) inches above **the** Base Flood Elevation (BFE). XXX ck DLCD Mod ord XXXX

#### ~~[ 5.2.3.5 ]~~ **RECREATIONAL VEHICLES ]**

##### **6. Recreational Vehicles**

Recreational vehicles placed on sites ~~[ are required to ]~~ **shall:**

~~[-A-]~~**a.** Be on the site for fewer than 180 consecutive days, and

~~[-B-]~~**b.** Be fully licensed and ready for highway use, on its wheels or jacking system, ~~[-s-]~~ attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

~~[-C-]~~**c.** Meet the requirements of ~~[-s-]~~ **Section [ 5.2.3.4, ] 2.112.06, D, 5,**

*Manufactured Dwellings*, including the anchoring and elevation requirements for manufactured dwellings.

[ ~~5.2.3.6~~ APPURTENANT (ACCESSORY) STRUCTURES ]

7. *Appurtenant (Accessory) Structures*

Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures that meet the following [ requirements ] **standards**:

- [~~A~~]-a. Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in [~~s~~] Section [ 5.2.4 ] **2.112.06, E, Floodways**;
- [~~B~~]-b. Appurtenant structures must only be used for parking, access, and/or storage, and shall not be used for human habitation;
- [~~C~~]-c. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one- story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet;
- [~~D~~]-d. The portions of the appurtenant structure located below the **level that is 1.5 feet above the** Base Flood Elevation must be built using flood resistant materials;
- [~~E~~]-e. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
- [~~F~~]-f. The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in [~~s~~] Section [ 5.2.1 ] **2.112.06, B, Flood Openings**;
- [~~G~~]-g. Appurtenant structures shall be located and constructed to have low damage potential;
- [~~H~~]-h. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with [~~s~~] Section [~~5.1.5~~] **2.112.05, F, Tanks**; and,
- [+]-i. Appurtenant structures shall be constructed with electrical, mechanical, and

other service facilities located and installed ~~[-so as-]~~ to prevent water from entering or accumulating within the components during ~~[ conditions of]~~ **a flood that is 1.5 feet above the base flood elevation.**

#### [ ~~5.2.4~~ FLOODWAYS ]

##### **E. Floodways**

1. Located within the special flood hazard areas established in ~~[-s-]~~ Section ~~[ 3.2 ]~~ **2.112.03, B, Basis For Establishing the Special Flood Hazard Areas**, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

~~[-A-]~~ **a.** Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

i. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

ii. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in ~~[-s-]~~ Section ~~[-6.0-]~~ **2.112.07, Standards For Protection of Special Flood Hazard Area Floodplain Functions.**

~~[-B-]~~ **b.** If the requirements of ~~[-s-]~~ Section ~~[-5.2.4 (A)-]~~ **2.112.06, E, 1, a**, are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of ~~[-s-]~~ Sections ~~[-5.0-]~~ **2.112.05, Flood Hazard Reduction Standards, 2.112.06, Standards For Riverine (including all non-coastal) Flood Zones** and ~~[-6.0-]~~ **2.112.07, Standards For Protection of Special Flood Hazard Area Floodplain Functions.**

#### [ ~~5.2.5~~ STANDARDS FOR SHALLOW FLOODING AREAS ]

##### **F. Standards For Shallow Flooding Areas**

Shallow flooding areas appear on *Flood Insurance Rate Maps (FIRM)* as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood

depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow.

1. For ~~both~~ AO and AH zones, adequate drainage paths ~~are required~~ **shall be provided** around structures on slopes to guide floodwaters around and away from proposed structures.

#### [ ~~5.2.5.1~~ — STANDARDS FOR AH ZONES ]

2. Development within AH Zones must comply with the standards in ~~Sections~~ ~~5.1~~ ] **2.112.05, A – I, Flood Hazard Reduction – General Standards, ~~5.2,~~ and **2.112.06, A – F, Standards For Riverine (including all non-coastal) Flood Zones, ~~and 5.2.5~~ .****

#### [ ~~5.2.5.2~~ — STANDARDS FOR AO ZONES ]

3. In AO zones, the following ~~provisions~~ **standards** apply in addition to the requirements in ~~Sections~~ ~~5.1~~ ] **2.112.05, A – I, Flood Hazard Reduction – General Standards,** and ~~5.2.5~~ ] **2.112.06, F, Standards For Shallow Flooding Areas.**

~~[A]~~ a. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building [ ~~, at minimum~~ ] to **a level a minimum of 1.5 feet above the Base Flood Elevation (BFE)** or [ ~~above the depth number specified on the Flood Insurance Rate Maps (FIRM)~~ ] **(COMMUNITY FREEBOARD-REQUIREMENT)** (at least two ~~(2)~~-feet-) **to a level a minimum of 2.0 feet above the Base Flood Elevation (BFE)** if no depth number is specified [ ~~(+)~~ ]. For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

~~[B]~~ b. New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

- i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site [ ~~, at minimum~~ ] to **a level a minimum of 1.5 feet above the Base Flood Elevation (BFE)** or [ ~~above the depth number specified on the Flood Insurance Rate Maps (FIRMS)~~ ] **(COMMUNITY FREE BOARD REQUIREMENT)** (at least two ~~(2)~~-feet ] **to a level a minimum of 2.0 feet above the Base Flood Elevation (BFE)** if no depth number is specified [ ~~(+)~~ ]; or
- ii. Together with attendant utility and sanitary facilities, be completely floodproofed to **a level a minimum of 1.5 feet above the Base Flood Elevation (BFE)** or [ ~~above the depth number specified on the FIRM-~~ ] **(COMMUNITY FREEBOARD REQUIREMENT)** ] or **to a level** a minimum of [ ~~two (-) 2~~ ] ~~(+)~~ feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and



with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer  ~~or architect~~  as stated in  ~~s~~  Section  ~~[ 5.2.3.3(A)(4) ]~~ **2.112.06, D, 4, a.**

- ~~[-C-]~~ **c.** Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:
  - i. Be on the site for fewer than 180 consecutive days, and
  - ii. Be fully licensed and ready for highway use, on its wheels or jacking system, ~~[-is-]~~ attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - iii. Meet the elevation requirements of  ~~[ s ]~~ Section  ~~[-5.2.5.2(A)-]~~ **2.112.06, F, 3, a**, and the anchoring and other requirements  ~~[ for manufactured dwellings of ]~~ *in*  ~~[ s ]~~ Section  ~~[ 5.2.3.4- ]~~ **2.112.06, D, 5, Manufactured Dwellings.**
- ~~[-D-]~~ **d.** In AO zones, new and substantially improved appurtenant structures must comply with  ~~[ the standards in s ]~~ Section  ~~[-5.2.3.6-]~~ **2.112.06, D, 7, Appurtenant (accessory) Structures.**
- ~~[-E-]~~ **e.** In AO zones, enclosed areas beneath elevated structures shall comply with  ~~[ the requirements in s- ]~~ Section  ~~[-5.2.1-]~~ **2.112.06, B, Flood Openings.**

## **[ 6.0 STANDARDS FOR PROTECTION OF SFHA FLOODPLAIN FUNCTIONS ]**

### **2.112.07 Standards For Protection of Special Flood Hazard Area Floodplain Functions**

The standards described  ~~[ below ]~~ *in Section 2.112.07* apply to all special flood hazard areas as defined in Section  ~~[ 2.0- ]~~ **2.112.02, Definitions.**

## **[ 6.1 NO-NET LOSS STANDARDS ]**

### **A. No Net Loss Standards**

- ~~[-A-]~~ **1.** No net loss of the three proxies *(undeveloped space, pervious surfaces, and trees)* for the floodplain functions *(floodplain storage, water quality, and vegetation)*  ~~[ mentioned in Section 1 ]~~ is required for development in the special flood hazard area that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the three floodplain functions. Prior to the issuance of any development authorization, the applicant shall:

- ~~[-]~~ **a.** Demonstrate a legal right by the project proponent to implement the



- proposed activities to achieve no net loss (e.g., property owner agreement);
- [ii] *b.* Demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;
  - [iii] *ic.* Include a management plan that identifies the responsible site manager, stipulates what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.
- [B-] 2. Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss. To offset the impacts of delay in implementing no net loss, a 25 percent increase in the required minimum area is added for each year no net loss implementation is delayed.
- [C-] 3. No net loss must be provided within, in order of preference: 1) the lot or parcel that floodplain functions were removed from, 2) the same reach of the waterbody where the development is proposed, or 3) the special flood hazard area within the same hydrologically connected area as the proposed development. Table 1 presents the no net loss ratios, which increase based on the preferences listed above.

[ 6.1.1 — UNDEVELOPED SPACE ]

**B. Undeveloped Space**

- [A-] 1. Development proposals shall not reduce the fish-accessible and egress-able undeveloped space within the special flood hazard area.
- [B-] 2. A development proposal with an activity that would impact undeveloped minimize pollutant loading. See section 6.2.C for stormwater retention specifications.
- [C-] 3. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1 and at the same flood level at which the development causes an impact (i.e., plus or minus 1 foot of the hydraulically equivalent elevation).
- [+] *a.* Hydraulically equivalent sites must be found within either the equivalent 1-foot elevations or the same flood elevation bands of the development proposal. The flood elevation bands are identified as follows:
    - [-(1)-] *i.* Ordinary High Water Mark to 10-year,
    - [-(2)-] *ii.* 10-year to 25-year,
    - [-(3)-] *iii.* 25-year to 50-year,
    - [ (4) ] *iv.* And 50-year to 100-year
  - [ii] *b.* Hydrologically connected to the waterbody that is the flooding source;
  - [iii] *c.* Designed so that there is no increase in velocity; and

[iv] *d.* Designed to fill and drain in a manner that minimizes anadromous fish stranding to the greatest extent possible.

[ 6.1.2 IMPERVIOUS SURFACES ]

**C. Impervious Surfaces**

Impervious surface mitigation shall be mitigated through any of the following options:

[A-] 1. Development proposals shall not result in a net increase in impervious surface area within the SFHA, or

[B-] 2. use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a

[C-] 3. If prior methods are not feasible and documented by a qualified professional stormwater retention is required to ensure no increase in peak volume or flow and to maximize infiltration, and treatment is required to minimize pollutant loading. See section 6.2.C for stormwater retention specifications.

[ 6.1.3 TREES ]

**D. Trees**

[ A ] 1. Development proposals shall result in no net loss of trees 6-inches dbh or greater within the special flood hazard area. This requirement does not apply to silviculture where there is no development.

[ i ] *a.* Trees of or exceeding 6-inches dbh that are removed from the RBZ, Floodway, or RBZ-fringe must be replaced at the ratios in Table 1.

[ ii ] *b.* Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area.

[ 6.2 STORMWATER MANAGEMENT ]

**E. Stormwater Management**

Any development proposal that cannot mitigate as specified in 6.1.2(A)-(B) must include the following:

[A-] 1. Water quality (pollution reduction) treatment for post-construction stormwater runoff from any net increase in impervious area; and

[B-] 2. Water quantity treatment (retention facilities) unless the outfall discharges into the ocean.

[C-] 3. Retention facilities must:

- [+] a. Limit discharge to match the pre-development peak discharge rate (i.e., the discharge rate of the site based on its natural groundcover and grade before any development occurred) for the 10-year peak flow using a continuous simulation for flows between 50 percent of the 2-year event and the 10-year flow event (annual series).
  - [-i-] b. Treat stormwater to remove sediment and pollutants from impervious surfaces such that at least 80 percent of the suspended solids are removed from the stormwater prior to discharging to the receiving water body.
  - [-iii-] c. Be designed to not entrap fish and drain to the source of flooding.
  - [-iv-] d. Be certified by a qualified professional.
- [-D-] 4. Stormwater treatment practices for multi-parcel facilities, including subdivisions, shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include
- [+] a. Access to stormwater treatment facilities at the site by the **COMMUNITY TYPE (e.g., city, county)** for the purpose of inspection and repair.
  - [-ii-] b. A legally binding document specifying the parties responsible for the proper maintenance of the stormwater treatment facilities. The agreement will be recorded and bind subsequent purchasers and sellers even if they were not party to the original agreement.
  - [-iii-] c. For stormwater controls that include vegetation and/or soil permeability, the operation and maintenance manual must include maintenance of these elements to maintain the functionality of the feature.
  - [-iv-] d. The responsible party for the operation and maintenance of the stormwater facility shall have the operation and maintenance manual on site and available at all times. Records of the maintenance and repairs shall be retained and made available for inspection by the **COMMUNITY TYPE (e.g., city, county)** for five years

### [ 6.3 ACTIVITIES EXEMPT FROM NO NET LOSS STANDARDS ]

#### F. *Activities Exempt From No Net Loss Standards*

The following activities are not subject to the no net loss standards in Section [-6.1-] **2.112.07, A**, however, they may not be exempt from floodplain development permit requirements.

- [-A-] 1. Normal maintenance of structures, such as re-roofing and replacing siding, provided there is no change in the footprint or expansion of the roof of the structure;
- [-B-] 2. Normal street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, that does not alter contours, use, or alter culverts. Activities exempt do not include expansion of paved areas;
- [-C-] 3. Routine maintenance of landscaping that does not involve grading, excavation, or filling;
- [-D-] 4. Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration provided the spoils are removed from special flood hazard area or tilled into fields as a soil amendment;

- [-E-] 5. Routine silviculture practices that do not meet the definition of development, including harvesting of trees as long as root balls are left in place and forest road construction or maintenance that does not alter contours, use, or alter culverts;
- [-F-] 6. Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;
- [-G-] 7. Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles provided there is no net change in footprint;
- [-H-] 8. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition of protection on the face or toe with rock armor.
- [+] 9. Habitat restoration activities.

#### [ 6.4 RIPARIAN BUFFER ZONE (RBZ) ]

##### G. *Riparian Buffer Zone (RBZ)*

- [-A-] 1. The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or inland of the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.
- [-B-] 2. Habitat restoration activities in the RBZ are considered self-mitigating and are not subject to the no net loss standards described above.
- [-C-] 3. Functionally dependent uses are only subject to the no net loss standards for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards.
- [-D-] 4. Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard.
- [ E ] 5. Under FEMA's beneficial gain standard, an area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation and designated as open space

Table 1 No Net Loss Standards

<b>Basic Mitigate Ratios</b>	<b>Undeveloped Space (ft<sup>3</sup>)</b>	<b>Impervious Surface (ft<sup>2</sup>)</b>	<b>Trees (6”&lt;dbh≤20”)</b>	<b>Trees (20”&lt;dbh≤39”)</b>	<b>Trees (39”&lt;dbh)</b>
<b>RBZ and Floodway</b>	2:1*	1:1	3:1*	5:1	6:1
<b>RBZ-Fringe</b>	1.5:1*	1:1	2:1*	4:1	5:1
<b><u>Mitigation multipliers</u></b>					
<b>Mitigation onsite to Mitigation offsite, same reach</b>	100%	100%	100%	100%	100%
<b>Mitigation onsite to Mitigation offsite, different reach, same watershed (5<sup>th</sup> field)</b>	200% *	200%*	200%*	200%	200%

**Notes:**

1. Ratios with asterisks are indicated in the BiOp
2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.
  - a. For example, if only 500 ft<sup>2</sup> of the total 1000 ft<sup>2</sup> of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 ft<sup>2</sup> of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.
3. RBZ impacts must be offset in the RBZ, on-site or off-site.
4. Additional standards may apply in the RBZ (See 6.4 Riparian Buffer Zone)